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No. 36] NEW DELHI, AUGUST 31—SEPTEMBER 6, 2014, SATURDAY/BHADRA 9—BHADRA 15, 1936

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कृषि मंत्रालय

(कृषि एवं सहकारिता विभाग)

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2389.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में कृषि एवं सहकारिता विभाग, कृषि मंत्रालय के सम्बद्ध कार्यालय विपणन एवं निरीक्षण निदेशालय, फरीदाबाद के अंतर्गत निम्नलिखित प्रशासनिक नियंत्रणाधीन कार्यालय को जिसके 80% कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

विपणन एवं निरीक्षण निदेशालय,
33, आनन्द नगर,
उप कार्यालय, रायपुर,
छत्तीसगढ़

[सं. 3-3/2011-रा.भा. नीति]

आर.बी. सिन्हा, संयुक्त सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 29th August, 2014

S.O. 2389.—In pursuance of Sub-Rule (4) of the Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies the following office which is under the administrative control of the Directorate of Marketing and Inspection, Faridabad an attached office of the Department of the Agriculture & Cooperation, Ministry of Agriculture, whereof 80% staff have acquired the working knowledge of Hindi-

Directorate of Marketing and Inspection,
33, Anand Nagar,
Sub Office, Raipur,
Chhatisgarh

[No.3-3/2011-O.L. Policy]

R.B. SINHA, Jt. Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 27 अगस्त, 2014

का.आ. 2390.—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए नई दिल्ली/दिल्ली स्थित विचारण न्यायालय में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा संस्थापित कोयला ब्लॉक आवंटन मामलों तथा उनसे सम्बद्ध एवं प्रासंगिक अन्य मामलों में अपीलों/पुनरीक्षणों में केन्द्रीय अन्वेषण ब्यूरो की ओर से उपस्थित होने के लिए श्री आर.एस. चीमा, अधिवक्ता को विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/44/2014-ए.वी.डी.-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 27th August, 2014

S.O. 2390.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri R.S. Cheema, Advocate as Special Public Prosecutor for conducting prosecution on behalf of Central Bureau of Investigation in Coal Block allocation Cases instituted by the Delhi Special Police Establishment (C.B.I) in the Trial Court at New Delhi/Delhi and appeals/ revisions or other matters connected therewith and incidental thereto.

[F.No. 225/44/2014-AVD-II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2391.—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए अहमदाबाद स्थित गुजरात उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापना (सीबीआई) द्वारा जांच किए जा रहे मामलों अथवा उनसे उत्पन्न अन्य मामलों में अभियोजन, अपीलों और पुनरीक्षणों का संचालन करने के लिए श्री रतनलाल छनालाल कोडेकर, अधिवक्ता को दिल्ली विशेष पुलिस स्थापना (केन्द्रीय अन्वेषण ब्यूरो) का विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/45/2014-ए.वी.डी.-II]

राजीव जैन, अवर सचिव

New Delhi, the 29th August, 2014

S.O. 2391.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal

Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Ratanlal Chhanalal Kodekar, Advocate as Special Public Prosecutor of the Delhi Special Police Establishment (Central Bureau of Investigation) in the Gujarat High Court at Ahmedabad for conducting the prosecution, appeals, revisions or other matters arising out of the cases investigated by the Delhi Special Police Establishment (CBI).

[F.No.225/45/2014-AVD-II]

RAJIV JAIN, Under Secy.

प्रधान मुख्य आयकर आयुक्त का कार्यालय, राजस्थान

जयपुर, 26 अगस्त, 2014

(सं. 07/2014-15)

का.आ. 2392.—आयकर अधिनियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए प्रधान मुख्य आयकर आयुक्त, राजस्थान, जयपुर एतद्वारा निर्धारण वर्ष 2013-14 एवं आगे के लिए कथित धारा के उद्देश्य से “भाई नितिन कुमार ऐजुकेशन एण्ड सोशियल वेलफेयर ट्रस्ट खेमना रोड, सादुलपुर (राजगढ़) चुरू” को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक: प्रमुआआ/आअ(तक.)/जय/10(23सी) (vi)/2014-15/3161]

स्वतन्त्र कुमार, प्रधान मुख्य आयकर आयुक्त

OFFICE OF THE PR. CHIEF COMMISSIONER OF INCOME TAX, RAJASTHAN

Jaipur, the 26th August, 2014

(No. 07/2014-15)

S.O. 2392.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules 1962, the Chief Commissioner of Income-tax, Jaipur hereby approves “Bhai Nitin Kumar Education & Social Welfare Trust Khemana Road, Sadulpur (Rajgarh), Churu” for the purpose of said section for the A.Y. 2013-14 onwards, provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with Rule 2CA of the Income-tax Rules, 1962.

[No. PCCIT/JPR/ITO(Tech.)/10(23C)(vi)/2014-15/3161]

SWATANTRA KUMAR, Pr. Chief Commissioner of Income Tax

जयपुर, 27 अगस्त, 2014

(सं. 08/2014-15)

का.आ. 2393.—आयकर अधिनियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए प्रधान मुख्य आयकर आयुक्त, राजस्थान, जयपुर एतद्वारा निर्धारण वर्ष 2013-14 एवं आगे के लिए कथित धारा के उद्देश्य से “श्रीमती मोहनी देवी लेखराज ओधरानी चेरीटेबल ट्रस्ट, सेक्टर-4, जवाहर नगर, जयपुर” को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक: प्रमुआआ/आअ(तक.)/जय/10(23सी)
(vi)/2014-15/3159]

स्वतन्त्र कुमार, प्रधान मुख्य आयकर आयुक्त

Jaipur, the 27th August, 2014

(No. 08/2014-15)

S.O. 2393.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules 1962, the Chief Commissioner of Income-tax, Jaipur hereby approves “Smt. Mohini Devi Lekhranj Odhrani Charitable Trust, Sector-4, Jawahar Nagar, Jaipur” for the purpose of said section for the A.Y. 2013-14 onwards, provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. PCCIT/JPR/ITO(Tech.)/10(23C)(vi)/2014-15/3159]

SWATANTRA KUMAR, Pr. Chief Commissioner of
Income Tax

जयपुर, 27 अगस्त, 2014

(सं. 09/2014-15)

का.आ. 2394.—आयकर अधिनियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए प्रधान मुख्य आयकर आयुक्त, राजस्थान, जयपुर एतद्वारा निर्धारण वर्ष 2013-14 एवं आगे के लिए कथित धारा के उद्देश्य से “सैण्ड दून्स एकेडमी, 116, विवेक विहार, न्यू सांगानेर रोड, जयपुर” को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक: प्रमुआआ/आअ(तक.)/जय/10(23सी)
(vi)/2014-15/3160]

स्वतन्त्र कुमार, प्रधान मुख्य आयकर आयुक्त

Jaipur, the 27th August, 2014

(No. 09/2014-15)

S.O. 2394.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules 1962, the Pr. Chief Commissioner of Income-tax, Jaipur hereby approves “Sand Dunes Academy, 116, Vivek Vihar, New Sanganer Road, Jaipur” for the purpose of said section for the A.Y. 2013-14 onwards, provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. PCCIT/JPR/ITO(Tech.)/10(23C)(vi)/2014-15/3160]

SWATANTRA KUMAR, Pr. Chief Commissioner of
Income Tax

जयपुर, 27 अगस्त, 2014

(सं. 10/2014-15)

का.आ. 2395.—आयकर अधिनियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए प्रधान मुख्य आयकर आयुक्त, राजस्थान, जयपुर एतद्वारा निर्धारण वर्ष 2013-14 एवं आगे के लिए कथित धारा के उद्देश्य से “खण्डेलवाल चैरिटी ट्रस्ट, वार्ड नं. 17, विजय कॉलोनी, जयपुर रोड, सीकर” को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक: प्रमुआआ/आअ(तक.)/जय/10(23सी)
(vi)/2014-15/3184]

स्वतन्त्र कुमार, प्रधान मुख्य आयकर आयुक्त

Jaipur, the 27th August, 2014

(No. 10/2014-15)

S.O. 2395.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules 1962, the Pr. Chief Commissioner of Income-tax, Jaipur hereby approves “Khandelwal Charity Trust, Ward No. 17, Vijay Colony, Jaipur Road, Sikar” for the purpose of said section for the A.Y. 2013-14 onwards, provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. PCCIT/JPR/ITO(Tech.)/10(23C)(vi)/2014-15/3184]

SWATANTRA KUMAR, Pr. Chief Commissioner of
Income Tax

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 28 अगस्त, 2014

का.आ. 2396.—सार्वजनिक परिसर (अनधिकृत कब्जाधारियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्राधिकृत शक्तियों का प्रयोग तथा पेट्रोलियम और प्राकृतिक गैस मंत्रालय भारत सरकार की दिनांक 28 मई, 2007 की अधिसूचना संख्या 25015/1/91-ओ आर-II का प्रतिस्थापन करते हुए भारत सरकार नीचे दी गई सारणी के (कॉलम 2) में अधिकारियों को भारत सरकार के राजपत्रित अधिकारियों के समकक्ष होने के नाते सम्पदा अधिकारी नियुक्त करती है। ये अधिकारी उक्त अधिनियम में सम्पदा अधिकारी के लिए निर्धारित शक्तियों का प्रयोग उक्त सारणी के कॉलम 3 में वर्णित सार्वजनिक परिसरों के लिए सीमित स्थानीय क्षेत्राधिकार के अंतर्गत अपने कार्यपालन के लिए करेंगे।

सारणी

क्र. सं.	यूनिट/कार्यालय का नाम	अधिकारी का पद	सार्वजनिक परिसरों की श्रेणियों तथा स्थानीय क्षेत्राधिकार की क्षेत्र सीमाएं
(1)	(2)	(3)	(4)
1.	नई दिल्ली	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, स्कोप कॉम्प्लेक्स, कोर-2, 7, इंस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली-110003	केन्द्र शासित प्रांत दिल्ली, तथा उत्तर प्रदेश के नोएडा (नवीन ओखला औद्योगिक विकास प्राधिकरण) के अंतर्गत स्थित इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
2.	गुवाहाटी रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, गुवाहाटी रिफाइनरी पीओ. नूनमाटी, गुवाहाटी-781020	असम राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
3.	बरौनी रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड बरौनी रिफाइनरी, डाकघर बरौनी रिफाइनरी जिला बैंगुराय, बिहार-861114	बिहार राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
4.	गुजरात रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड गुजरात रिफाइनरी, डाकघर जवाहर नगर, जिला वडोदरा, गुजरात-391320	गुजरात राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
5.	हल्दिया रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड हल्दिया रिफाइनरी, जिला मिदनापुर, पश्चिमी बंगाल-721606	पश्चिम बंगाल राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
6.	मथुरा रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड पानीपत रिफाइनरी, मथुरा-281005 (उत्तर प्रदेश)	नवीन ओखला औद्योगिक विकास प्राधिकरण नोएडा को छोड़कर उत्तर प्रदेश राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
7.	पानीपत रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड पानीपत रिफाइनरी, हरियाणा-132140	हरियाणा राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर

(1)	(2)	(3)	(4)
8.	असम ऑयल डिवीजन	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड डिगबोई रिफाइनरी, डिगबोई-786171 (असम)	असम राज्य के अंदर तथा आस पास इंडियन ऑयल कॉर्पोरेशन लिमिटेड, असम ऑयल डिवीजन के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
9.	पारादीप रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड पारादीप रिफाइनरी, डाकघर : झिमानी, बाया-कुजांग, जगतसिंहपुर, ओडिशा-754141	ओडिशा राज्य के अंदर तथा आस पास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
10.	कोलकाता (समन्वय कार्यालय)	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, इंडियन ऑयल भवन, सेंट्रल विंग, छठा माला-2, गरियाहाट रोड (दक्षिण) कोलकाता-700068	कोलकाता शहर के अंदर तथा आस पास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
11.	बौंगाईगांव रिफाइनरी	मुख्य प्रबंधक (प्रशासन व कल्याण)/मुख्य मानव संसाधन प्रबंधक, इंडियन ऑयल कॉर्पोरेशन लिमिटेड बौंगाईगांव रिफाइनरी, पीओ धौलीगांव, जिला-बौंगाईगांव-783385 असम, भारत	असम राज्य के अंदर तथा आस पास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर

[फा. सं. आर-25015/1/2007-ओआर-1]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 28th August, 2014

S.O. 2396.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Petroleum & Natural Gas No. R-25015/1/91-OR. I dated Twenty Eighth May, 2007 the Central Government hereby appoints the officers mentioned in column (2) of the table below, being officer of equivalent rank of Gazetted Officers of the Government, to be Estate Officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entry in column (3) of the said table.

TABLE

Sl. No.	Name of the Unit/ Office	Designation of the Officer	Categories of public premises and local limits of jurisdiction
(1)	(2)	(3)	(4)
1.	New Delhi	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Refineries HQ, Core-2, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003	Public premises under the administrative control of Indian Oil Corporation Ltd. within the Union Territory of Delhi and New Okhla Industrial Development Authority (NOIDA) of the State of Uttar Pradesh.
2.	Guwahati Refinery	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Guwahati Refinery, P.O. Noonmati, Guwahati-781020	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Assam.
3.	Barauni Refinery	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Barauni Refinery, P.O. Barauni Refinery, Distt. Begusarai, Bihar-861114.	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Bihar.

(1)	(2)	(3)	(4)
4.	Gujarat Refinery	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Gujarat Refinery, P.O. Jawahar Nagar, Distt. Vadodara, Gujarat-391320	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Gujarat.
5.	Haldia Refinery	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Haldia Refinery, Distt. Midnapur, West Bengal-721606	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of West Bengal.
6.	Mathura Refinery	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Mathura Refinery, Mathura, Uttar Pradesh-281005	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Uttar Pradesh except for the New Okhla Industrial Development Authority (NOIDA) area.
7.	Panipat Refinery	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Panipat Refinery, P.O. Panipat Refinery, Panipat, Haryana-132140	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Haryana.
8.	Assam Oil Division	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Assam Oil Division, Digboi Refinery, Digboi-786171	Public premises under the administrative control of & Assam Oil Division, Indian Oil Corporation Ltd. within the State of Assam.
9.	Paradip Refinery Project	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Paradip Refinery, P.O. : Jhimani, Via-Kujang, Distt. Jagatsinghpur, Odisha-754141	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Odisha.
10.	Kolkata (Liaison Office)	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Indian Oil Bhavan, Central Wing, 6th Floor, 2, Gariahat Road (South), Kolkata-700068	Public premises under the administrative control of Indian Oil Corporation Ltd. within the city of Kolkata.
11.	Bongaigaon Refinery	Chief Manager (Administration and Welfare)/ Chief Human Resource Manager, Indian Oil Corporation Ltd., Bongaigaon Refinery, P.O. : Dhaligaon, Distt Bongaigaon 783385 (Assam) India.	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Assam.

[F.No.R-25015/1/2007-OR-I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 3 सितम्बर, 2014

का.आ. 2397.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में उक्त अधिनियम के अधीन महाराष्ट्र राज्य के भीतर गेल (इण्डिया) लिमिटेड की सभी पाइपलाइनों के लिये सक्षम प्राधिकारी के कार्यों का निर्वहन करने के लिये श्रीमती पी. एस. जायतू डिप्टी कलेक्टर, महाराष्ट्र सरकार, को दिनांक 1-8-2014 से प्राधिकृत करती है।

[फा. सं. एल-14014/31/'14-जी.पी.]

एस. पी. अग्रवाल, अवर सचिव

New Delhi, the 3rd September, 2014

S.O. 2397.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), Central Government hereby authorizes Smt. P.S. Jaitu, Deputy Collector, Maharashtra Government to perform the functions of competent Authority for all pipelines of GAIL (India) Limited, under the said Act, within the Territory of Maharashtra w.e.f. 1-8-2014.

[F.No.L-14014/31/'14-GP.]

S. P. AGARWAL, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 29 अगस्त, 2014

का.आ 2398.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इंस्ट्रुमेंटेशन लिमिटेड, पलककड, केरल के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, 30.8.2014 से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :—

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदत्त अंशदानों के आधार पर हकदार हो जाते हैं;
- (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
- (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थीं;
- (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई सामाजिक सुरक्षा अधिकारी या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
 - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
 - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
 - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:—

- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त अधिकारी या अन्य पदधारी इस अधिनियम के प्रयोजनार्थ आवश्यक समझता है; अथवा
- (ख) ऐसे प्रधान नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
- (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ.) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।

- (6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और तब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[संख्या एस-38014/21/2013-एसएस-I]

अजय मलिक, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 29th August, 2014

S.O. 2398.—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Instrumentation Limited, Palakkad, Kerala from the operation of the said Act. The exemption shall be effective w.e.f. 30.8.2014 for a period of one year.

2. The above exemption is subject to the following conditions namely :—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees’;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees’ State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under sub-section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :—
 - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of Section 44 for the said period; or
 - (ii) Ascertaining whether registers and records were maintained as required by the Employees’ State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to :
 - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
 - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or

other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or
 - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
 - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption,

[No. S-38014/21/2013-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 26 अगस्त, 2014

का.आ. 2399.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाराष्ट्र निष्पादक एवं न्यासी कंपनी प्राइवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुंबई के पंचाट (संदर्भ सं. 54/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/35/2012-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 26th August, 2014

S.O. 2399.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of The Maharashtra Executor & Trustee Co. Pvt. Ltd. and their workmen, received by the Central Government on 25/08/2014.

[No. L-12011/35/2012-IR (B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT : K. B. KATAKE, Presiding Officer****REFERENCE NO. CGIT-2/54 of 2012****EMPLOYERS IN RELATION TO THE MANAGEMENT
OF THE MAHARASHTRA EXECUTOR &
TRUSTEE CO. PVT. LTD.**

The Chairman,
The Maharashtra Executor & Trustee Co. Pvt. Ltd.
(Subsidiary of Bank of Maharashtra)
C/o. Bank of Maharashtra
Gadkari Chowk Branch
Gokhale Road (North)
Dadar, Mumbai-400 028

AND**THEIR WORKMEN**

The President,
Mahabank Navnirman Sena
Rajgad Swamikripa
D.L. Vaidya Road
Shivaji Park, Dadar
Mumbai-400 028

APPEARANCES :**FOR THE EMPLOYER : Mr. Adharkar, Representative****FOR THE WORKMEN : No appearance**

Mumbai, dated the 3rd July, 2014

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-12011/35/2012-IR (B-II), dated 03.12.2012 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demands of Mahabank Navnirman Sena for wage revision and other demands as per Annexure A against the management of Maharashtra Executor & Trustee Co. Pvt. Ltd., Pune (A Subsidiary of Bank of Maharashtra) is legal, just and proper? What relief the workmen concerned are entitled to?”

2. After receipt of the reference notice was sent to both the parties. Since notice sent to Union was returned by postal authorities, again on 3/6/2013 notice was sent to the union and served vide Ex-5. Mr. Adharkar appeared for first party management. Second party remained absent on all dates except on 10.02.2014 when Mr. Umakant Kotnis appeared as representative of union but failed to file statement of claim. Sufficient time was given to them.

However neither union remained present nor filed their statement of claim. As the second party union failed to file its statement of claim, the reference deserves to be dismissed for want of prosecution. Thus, I proceed to pass the following order:

ORDER

The reference stands dismissed for want of prosecution. No order as to cost.

Date : 03.07.2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2400.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिविशनल इंजीनियर, (कोऑक्सिअल मेंटेनेंस) एण्ड आथर्स, टेलीकॉम एण्ड आथर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए/710/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-40012/34/2000-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2400.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGITA-710/2004) of the Central Government Industrial Tribunal cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Divisional Engineer (Coaxial Maintenance) & Others, Telecom and their workman, which was received by the Central Government on 26/8/2014.

[No. L-40012/34/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Binay Kumar Sinha,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated : 23rd June, 2014

Reference: (CGITA) No-710/2004

Reference: (I.T.C) No-21/2000(old)

Adjudication Order No. L-40012/34/2000-IR (DU)

1. Divisional Engineer (Coaxial Maintenance),
2nd Floor, City Telecom Building,
Jail Road, Vadodara,
Gujarat-390001
2. Divisional Engineer (Microwave Project),
Microwave Building,
Near Navrangpura Telephone Exchange,
Ahmedabad
Gujarat-380006

.....First Party

And

Their Workman

Sh. Khodabhai Devabhai Bharwad
At Palaj GIDC, Near Water Tank,
Bharuch

.....Second Party

For the First Party : Shri Nilesh K. Trivedi, Advocate

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi vide its order No. 40012/34/2000- IR(DU) dated 29.05.2000, referred the dispute for adjudication to the Industrial Tribunal, Baroda in respect of the matters specified in the Schedule:

SCHEDULE

“Whether the action of the management of Telecom in terminating the services of Sh. Khodabhai Devabhai Bharwad is legal and justified? If not, to what relief the workman is entitled and from what date?”

2. The case of the workman (2nd party) as per statement of claim (Ext.7) is that he was engaged as security guard at Palaj Microwave in the year 1997 and was getting wages of Rs. 1,500 per month. He from 1997 to 30th November, 1998 did not take leave and has worked continuously. He worked for 240 days in calendar year. He was doing work as permanent employee but was illegally terminated from the services which amount to unfair labour practice and without giving retrenchment notice or one month notice pay and retrenchment compensation. Prayer is made for reinstatement to the post of Security Guard with back wages and also any other relief to which the workman is found entitled.

3. The case of the 1st party (management) inter alia as per written statement (Ext.11) is that the reference is devoid of merit, not maintainable and the workman has no cause of action. The averment made para wise in the statement of claim are denied and are not true. It is not true that the 2nd party workman has worked as a Security Guard since May 1997 in Palaj M.W. Station under M.T.CE and was getting Rs. 1500 per month wages. It has been denied that the workman completed 240 days work in calendar year. The averment made in para 2 to 16 are not true and correct and so denied. The case of the 1st party is that the

workman (S.P.) was engaged purely on adhoc basis as daily wages casual labour since January 1999 to May 1999 for 121 days only. He was engaged for short duration and contingent work and not as Security Guard. His job is not continuous. Palaj M.W. R/R Station taken over by maintenance staff from S.D.E. M.W. Project, Ahmedabad on dated 30.11.1998 (A.N.) and the 2nd party was engaged as daily wages casual labour from 01.01.1999. He was not handed over as a casual labour along with Palaj MW/R/R. Station during handing over of Palaj MW R/R. Station. On these score, prayer is made for dismissal of reference with cost.

4. The case is running for leading evidence by the 2nd party workman but he is absent since long and is not attending the case. He submitted his affidavit in lieu of examination in chief on 21.04.2006 but did not turn up for cross-examination by the 1st party lawyer. So, the affidavit in lieu of examination-in-chief is legally carrying no evidentiary value. The 1st party is attending the case on dates but the 2nd party (workman) is absent since long. It appears that the 2nd party workman has lost interest in this case. The statement of claim of the 2nd party is mere pleading and not a substantive piece of evidence. So virtually there is no evidence on the record to substantiate the claim statement.

5. As such the terms of reference specified in the schedule is answered in affirmative that the action of the management of Telecom in terminating the services of Sh. Khodabhai Devabhai Bharwad is legal and justified. The 2nd party (workman) is not entitled to any relief.

The reference is dismissed. No order of any cost.

Let two copies of the award be sent to the appropriate Government for publication u/s 17(1) of the I.D. Act.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2401.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ह्यूमन रिसोर्सेस मैनेजमेंट डिपार्टमेंट, रिज़र्व बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 06/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/11/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2401.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 6/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court,

Nagpur as shown in the Annexure, in the industrial dispute between the management of Human Resources Management Department, Reserve Bank of India and their workmen, received by the Central Government on 26/08/2014.

[No. L-12011/11/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE SHRI J.P.CHAND, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/06/2012

Date : 22.08.2014

Party No. 1 : The Chief General Manager,
Human Resources
Management Department,
Reserve Bank of India,
Central Office, 20th and 21st Floor,
Central Office Building,
Mumbai.

Versus

Party No. 2 : President,
Reserve Bank Employees Association,
C/o Radhika, 34, Pandit Malviya Nagar,
Kamala Nagar,
Nagpur-25.

AWARD

(Dated : 22nd August, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Reserve Bank of India, Human Resources Management Department, Mumbai and their workmen, for adjudication, as per letter No.L-12011/11/2012-IR (B-I) dated 22.06.2012, with the following schedule:-

"Whether the action of the management of Reserve Bank of India in not conducting the examination during the panel year 2009 and 2010 for the promotion of class III employees to the post of Assistant Manager as per terms of settlement dated 23.06.2005 is legal and justified? Whether the employees who were eligible for promotion, but could not be promoted for not conducting the examination, for the said panel years are entitled for promotion without any examination? Whether the settlement dated 18.08.2011 relating to the scheme of promotion of class III employees to the post of Assistant Managers in Grade "A" is justified? To what relief the union is entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, "Reserve Bank Employees Association," ("the union" in short), filed the statement of claim and the management of Reserve Bank of India, ("Party No. 1" in short) filed their written statement.

The case as presented in the statement of claim by the union is that the party No.1 is a statutory Bank and is an "industry" within the meaning of Section 2(j) of the Act and the provisions of the Act are applicable to party No.1 and it is a registered Trade union of the class III employees working with party No.1 and its members are "workmen" within the meaning of Section 2(s) of the Act and service conditions of class III and class IV employees of party No.1 are governed by various Awards and Bi-partite settlements and the cause of action in the present reference involves community of interest and therefore, it(union) resolved to support, espouse and champion the said dispute and the dispute is an "industrial dispute" as per the provision of Section 2(k) of the Act.

The further case of the union is that to its knowledge, only two registered unions are operating in class III cadre of party No.1 and it had neither been invited nor had signed the settlement dated 23.06.2005 and the union, "All India Reserve Bank Employees Association" ("AIRBEA" in short), which had signed the said settlement is neither a recognized union nor the said union can be termed as recognized union by the management and this is because, there is no provision either under the Trade unions Act or the Act, which gives right and powers to the management to accord reorganization to any particular union and as such, the AIRBEA, the signatory to the settlement dated 23.06.2005 is not a legally recognized trade union in the party No.1 and the status given by the party No.1 to AIRBEA is plainly arbitrary and not in accordance with the provisions of law.

It is further pleaded by the union that the settlement dated 23.06.2005 covers the subject-matter of promotion of class III employees to the post of Assistant Managers in Grade "A" and the said scheme mainly consists of two type of promotions, namely, (i) qualifying channel (which is mainly based on seniority of the employee in the cadre) and (ii) merit channel and it was specifically agreed in clause 8 of the settlement dated 23.06.2005 that, "Qualifying and merit channel examination" shall be conducted in every calendar year, which is popularly termed as every panel year and as per the said settlement, the last such examination conducted by the party No.1 was for the year 2008 and thereafter, party No.1 unilaterally and arbitrarily decided not to conduct any examination during the calendar year 2009 and 2010 and in its opinion, the said action of party No.1 was to support the union, AIRBEA, which was suffering from its membership

position due to promotion of clerical employees to officer cadre subsequent to the year 2005 and party No.1 did not quote the reasons, which led it to commit breach of clause 8 of the settlement dated 23.06.2005 and as no examination was conducted in 2009 and 2010, the right of the employees who were eligible and qualified for the said promotional examination came to be seriously and unreasonably affected and they lost the chance and opportunity of promotion and also monetary benefits arising there from and in not conducting the examination in 2009 and 2010, in fact, party No.1 illegally changed the service conditions of the employees, without giving them the notice under section 9-A of the Act and the entire action of party No.1 in not conducting the examination was in breach of the settlement dated 23.06.2005 and the same was illegal, arbitrary and smacked of malafide and patently unfair labour practice as defined in item nos. 1, 2, 4 and 9 of schedule V to the Act and therefore, the employees, who were eligible for promotional examination for the panel year 2009 and 2010 are required to be given promotion without examination, retrospectively with consequential benefits and wage benefits.

The further case of the union is that on 18.08.2011, the party No.1 and AIRBEA signed one more settlement on the subject of promotion of class III cadre to Assistant Manager Grade "A", making changes and modifications in the settlement dated 23.06.2005 and the said settlement having not signed by the parties under section 18(3) of the Act, the same is not binding on its members and since promotional examination to officer Grade "A" is predominately based on seniority of the employees working in the clerical cadre, there was no justification or logic for any provision to conduct examination for the said purpose and the employees, who want to compete are having chance of examination provided in the merit channel, where written examination is justified to decide the competency and merit of the employees and for promotion on seniority basis, the employees should be selected on the basis of seniority and service report only and as such, the settlement dated 22.08.2011 is required to be quashed or cancelled or suitably modified, with a view to protect seniority of employees in the process of promotion to Assistant Manager Grade "A" and though it(union) vide its notice dated 22.08.2011 raised the demand, party No.1 paid a deaf year to the same.

The union has prayed to declare the action of party No.1 in not conducting the examination in 2009 and 2010 for promotion of class III employees to the post of Assistant Manager Grade "A" as per the terms of the settlement dated 23.06.2005 as illegal and unjustified and to declare the employees of class III cadre, who were eligible for promotion, but could not be promoted for not conducting the examination as promoted to officer Grade "A", without any examination and to declare the settlement dated 18.08.2011 as unjustified.

3. The party no.1 in the written statement has pleaded inter-alia that the union is an unrecognized minority union, affiliated to the All India Reserve Bank Workers Organization, having membership of only 307 employees, out of the total working strength of 3599 employees in class-III cadre on all India basis and the demands of the unrecognized union had been fully considered while negotiating and arriving at a settlement on 23.06.2005 with the majority recognized union, the AIRBEA.

It is further pleaded by party no.1 that it exercises various powers and discharges statutory functions under the Banking Regulation Act, 1949, the Reserve Bank of India Act, 1934, Public Debt Act (now the Government Securities Act) etc. and it has framed well defined policy and guide lines for the purpose of recruitment of different classes of employees, their service conditions, conduct, discipline etc and the service conditions of its employees are governed by RBI (Staff) Regulations, 1948 and in terms of Regulation 29 of the said Regulations, all appointments and promotions should be made at the discretion of the Bank and not withstanding his/her seniority in a grade, no employee shall have a right to be appointed or promoted to any particular post or grade and Regulation 6 empowers the Governor of the Bank to issue administrative instructions as may be necessary to give effect to and carry out the purposes of the provisions of these Regulations or otherwise to secure effective control of the staff and in addition to this, class-III and class-IV staffs, who are "workmen" within the meaning of Section 2 (s) of the Act are also governed by various Awards passed by the National Industrial Tribunal, such as Dighe Award, Desai award and Bipartite settlement with the recognized association representing workmen employees, administrative circulars and office orders issued by it from time to time and as per the code of discipline agreed in the tripartite meeting held in 1966 between the Reserve Bank of India, Ministry of Labour, Government of India and the unions and it was agreed to recognize one trade union each at All India level, to represent the class-III and class-IV employees, having majority membership and minimum membership of 25% of respective category of employees on all India basis and similarly at the local level, in each office, it was agreed to recognize one trade union each to represent the class-III and class-IV employees having the majority membership and minimum 25% membership among the respective category of the employees in the local office and the Bank holds discussions on wage matters and other service conditions of the recognized all India bodies, viz All India Reserve Bank Employees Association and All India Reserve Bank Worker's Federation and local matters/problems are discussed with the local recognized association/union.

The further case of the party no.1 is that the settlement dated 23.06.2005 was entered into by it with AIRBEA, which was representing the majority of class-III

employees of the Bank, in terms of which, the then existing scheme for promotion of class-III staff to the post of Assistant Managers in Grade-A was further liberalized by introducing the concept of notional vacancies viz. 12.5% of actual working strength in Grade-A as on 1st January and the revised scheme was to be valid for three years, after which, it was to be reviewed by mutual consent, as mentioned in clause-11 of Memorandum of Settlement and the scheme was operated for three penal years, 2005, 2006 and 2007, in accordance with the said settlement and thereafter for 2008, after obtaining concurrence of AIRBEA and as AIRBEA withdrew from the MOS dated 23.06.2005, thereafter no examination could be conducted for the panel years 2009 and 2010 and finally, the settlement dated 18.08.2011 for a period of two panel years i.e. 2011 and 2012 was signed and consequently, examination had been held for the panel year 2011 and 2012 and AIRBEA addressed a letter to it on 20.12.2007, stating that the scheme was to be suspended and raised industrial dispute in the matter and AIRBEA also sent notice u/s. 19 (2) of the Act to terminate the settlement dated 23.06.2005 to the Chief Labour Commissioner (Central), New Delhi and the Dy. Chief Labour Commissioner (Central), Kolkata issued notice dated 21.02.2008 to it in respect of the scheme of promotion in terms of the settlement dated 23.06.2005 and since industrial dispute was raised before the Dy. Chief Labour Commissioner (Central), Calcutta, by AIRBEA, claiming the settlement dated 23.06.2005 to have been terminated and expired, no examination could be held in the years 2009 and 2010, which is evident from the letter dated 16.10.2009, written by AIRBEA to the Chief Labour Commissioner in reference 07.02.2008 and on 15.06.2011, the dispute was treated as closed by the Regional Labour Commissioner (Central), Kolkata and under such circumstances, it was justified in not holding any examination till signing of the settlement dated 18.08.2011 by it with AIRBEA and consequent to the said settlement, examination for the panel year 2011 and 2012 was conducted.

Party no.1 has also pleaded that as the dispute is regarding granting of promotion without examination and the same is not related to employment or non-employment and terms of the employment or conditions of employment, the same is not an industrial dispute and the union has no locus-standi to raise the dispute, as it is a minority union having membership of 307 of the total working strength of employees of class-III staff on all India basis and in pursuance of the code of discipline, it has recognized the union, AIRBEA to represent the class-III staff and its policy to strictly adhere to the understanding of recognizing only one trade union each in class-III and class-IV having majority membership has proved beneficial in maintaining industrial peace and any departure from this policy may have untoward repercussions and AIRBEA, which is signatory to the settlement dated 23.06.2005 is the

recognized union for its class-III employees and with whom, it has been entering into various settlement from 1935 i.e. from the inception of the RBI till date and it was justified in not holding the examination in the years 2009 and 2010 and it had not changed the service condition of the employees and it is settled principle of law that promotion cannot be demanded as a matter of right and it is for the bank to decide on the modalities of promotion as per its requirement and no vested right accrues in favour of any employee for promotion, leave alone the question of granting promotion strictly on the basis of seniority without examination and as such, the workmen are not entitled to any relief.

4. In the rejoinder, it is pleaded by the union that there is no law at present which legally empowers the party no.1 to accord recognition to any trade union and the code of discipline is not a law to sanction recognition to any union and therefore, the action of the party no.1 in giving recognition to AIRBEA is illegal and without any authority, power or force of law and it amounts to unfair labour practice on the part of the management and the settlements dated 23.06.2005 and 18.08.2011 are not settlements signed due to mediation or efforts of conciliation officer and the settlements were unilateral and unfair and unsustainable in the eyes of law and the same are not binding on its members and after expiry of three years period of operation of the settlement dated 23.06.2005, no review was made by the parties to the said settlement and review was infact taken in the year 2011 and not in 2008, 2009 and 2010, so the settlement dated 23.06.2005 does not become non-est, but continued to be binding till the new contract replaces the same and during the pendency of the case, party no.1 has come out with another settlement dated 21.03.2013 without taking express permission as prescribed in the Act and such action is illegal.

5. Both the parties have led oral evidence, besides placing reliance on documentary evidence, in support of their respective case.

On behalf of the union, its President, Shri Nityananda S. Sahasrabudhe has been examined as a witness, whereas, Shri Krishnamurthy Srinivasan has been examined as a witness by party no.1.

6. The respective examination-in-chief of the witnesses examined by the parties on affidavit is in the same line as taken in the statement of claim and written statement.

Shri Nityananda, the witness examined on behalf of the union in his cross-examination has stated that the union is an unrecognized union and it is also a minority union and he does not have any idea about the code of discipline of the bank and if as per the code of discipline, the RBI has to enter into any settlement with the majority recognized union and the settlement dated 23.06.2005 was between the RBI and AIRBEA, the recognized majority

union and he cannot say if due to raising of the industrial dispute by AIRBEA before the DY.CLC (C), Kolkata, the management of RBI was not in a position to conduct the examination for promotion in the years 2009 and 2010.

Shri Krishnamurthy, the witness for the party No.1 in his cross-examination has also categorically stated that AIRBEA is the only recognized union for class III employees.

7. After perusal of the materials on record, including the pleadings of the parties and taking into consideration the submissions made by the learned advocate for the petitioner and the representative of the management, it is found that the union has tried to breath hot and cold at the same time. At one hand, it has challenged the legality of the action of the party no.1 in not conducting the examination during the panel years 2009 and 2010 for promotion of class-III employees as per the terms of Settlement dated 23.06.2005 and on the other hand it has claimed that the settlement dated 23.06.2005 and so also dated 18.08.2011 were not signed by it and the same are not binding on its members. The union has also claimed that the union AIRBEA, which is a signatory to the settlements is not a recognized union and the status given by party no.1 to AIRBEA as recognized union is plainly arbitrary and not in accordance with the provisions of law. In other words, the union has tried to raise the issue that the denial of party no.1 of giving it the status at par with AIRBEA to be unjust and illegal.

However, it will not be out of place to mention that the party no.1 in terms of code of discipline has recognized the union, AIRBEA, being the majority union as the representative union for its class-III employees and the party no.1 uses to enter into various settlements from time to time and party no.1 does not invite the union for discussion and also does not enter into any settlement with the same, the union being unrecognized minority union. Such fact has been admitted by the witness examined on behalf of the union. It is also to be mentioned that the Hon'ble Apex Court and Hon'ble Bombay High Court in different judgments have found no fault in the action of the party no.1 to deal with, negotiate and enter into settlements with the union, AIRBEA as a matter of policy, which has the support of overwhelming largest majority employees belonging to class-III. It is also held by the Hon'ble Apex Court in different judgments that once there is a representative union, there can be no role of any other union and if there are a number of trade unions registered under the Trade Unions Act, 1926 not entitled to be registered as representative unions and they raise disputes, industrial peace would be a far cry and where the management and a representative union reached a settlement the settlement became binding on all workmen of the establishment including those belonging to a dissenting minority union.

8. It is the admitted case of the parties that the party no.1 entered into the agreement dated 23.06.2005. The copy of the said agreement had been marked as Ext. W-I from the side of the union and Ext. M-III from the side of the party no.1. As per clause 8 of the said settlement, it was agreed between the parties to conduct the qualifying and merit channel examination during every calendar year. It is also found that as per clause 11 of the settlement, it was stipulated by the parties that the changes in the scheme as agreed upon in the said settlement would be effective from the year 2005 and would be in force till panel year 2007, after which the scheme would be reviewed by mutual consent. It is also the admitted case of the parties that in terms of the said settlement, party no.1 conducted the examination till 2008 and no examination was conducted in 2009 and 2010.

It is found from the evidence on record that the union, AIRBEA addressed a letter dated 20.12.2007, Ext. M-IV for review of the settlement and to treat the said letter as notice under section 19 (2) of the Act. It is also found from Ext. M-V that the union, AIRBEA served a notice under section 19 (2) of the Act to the Chief Labour Commissioner (Central), New Delhi for termination of the settlement and to keep the said scheme of promotion in abeyance till the issues raised by them are mutually and amicably settled. It is also found from Ext. M-VI that the Deputy Chief Labour Commissioner (C), Kolkata issued the notice dated 21.02.2008 to the party No.1 for joint discussion on the issue of Scheme of Promotion of class III employees to the posts of Assistant Manager Grade "A" on 04.03.2008. It is also found from record that the examination for promotion for the year 2008 was conducted by the party No.1 as per the terms of the settlement dated 23.06.2005 with consultation of the union AIRBEA and the settlement dated 23.06.2005 was treated to be terminated, after the expiry of the notice period. From the evidence on record, it is found that the industrial disputes raised by AIRBEA were subjudiced till 15.06.2011. In view of the termination of the settlement dated 23.06.2005 after the expiry of the notice period of the notice given by AIRBEA on 20.12.2007, Ext. M-VI and in view of pendency of the disputes raised by AIRBEA in respect of the said settlement before the conciliation officer, there was no question of conducting of the examination for promotion of class III employees to the post of Assistant Manager Grade "A" for the year 2009 and 2010 in terms of the settlement dated 23.06.2005. Hence, it is found that there is no illegality in the action of the party No.1 in not conducting the examination in 2009 and 2010 and therefore, there is also no question of giving of promotion to the eligible employees, without any examination.

9. The settlement dated 18.08.2011 has been claimed to be illegal by the union on the ground that since promotional examination to officer grade A is predominately based on seniority of the employees

working in the clerical cadre, there is no justification or logic for any provision to conduct examination for the said purpose and as provision for examination has been made for the employees for qualifying channel, the settlement dated 18.08.2011 is illegal. It is to be mentioned here that the settlement dated 18.08.2011 has already been replaced by another settlement dated 21.03.2013, after the expiry of the period of operation of the said settlement. More over, it is found from the record that in the settlement dated 23.06.2005 also, there was provision for examination for qualifying channel and the only change made in the settlement dated 22.08.2011 was that the paper on "RBI Act" and "RBI Functions and Working" was made descriptive paper instead of objective in nature as per the settlement dated 23.06.2005. It is found that examination for promotion in qualifying channel was not introduced for the first time in the settlement dated 18.08.2011. For modification of one written paper, from objective type to descriptive type, in the settlement dated 18.08.2011, the said settlement cannot be held to be illegal. Hence it is ordered:-

ORDER

The action of the management of Reserve Bank of India in not conducting the examination during the panel year 2009 and 2010 for the promotion of class III employees to the post of Assistant Manager as per terms of settlement dated 23.06.2005 is legal and justified. The employees who were eligible for promotion, but could not be promoted for not conducting the examination, for the said panel years are not entitled for promotion without any examination. The settlement dated 18.08.2011 relating to the scheme of promotion of class III employees to the post of Assistant Managers in Grade "A" is justified. The union is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2402.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बंगीय ग्रामीण विकास बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकता के पंचाट (संदर्भ संख्या 20/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/49/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2402.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute

between the management of Bangiya Gramin Vikas Bank and their workmen, received by the Central Government on 26/08/2014.

[No. L-12011/49/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 20 of 2013

Parties : Employers in relation to the management of
Bangiya Gramin Vikas Bank

AND

Their workman

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the Management : None

On behalf of the Workman : None

State : West Bengal

Industry : Banking

Dated: 13th August, 2014

AWARD

By Order No.L-12011/49/2012-IR(B-I) dated 14.03.2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management is justified by transferring the members of the Union as per Annexure-V without following guidelines of Posting & Transfer/placement for officers' clerks and sub-staff are legal and/or justified? If not, what relief the workmen are entitled to?"

2. When the case is taken up today for hearing, none appears on behalf of the any of the parties. It appears from the record that one joint petition alongwith the memorandum of settlement between the parties is kept with the record which was received by post. The record further goes to show that the union is absent for the last four consecutive dates. The management is also found absent since 03.03.2014. Perhaps the parties to the present reference do not find any interest to proceed with the case after filing the memorandum of settlement.

3. Considering the above facts and circumstances it appears that the parties do not want to proceed with the case further as the dispute has been settled between the parties. Accordingly, the instant reference case is disposed of by passing a "No Dispute Award".

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,

The 13th August, 2014.

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2403.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ के पंचाट (संदर्भ संख्या 1572/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/82/2008-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2403.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1572/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of State Bank of Patiala and their workmen, received by the Central Government on 26/08/2014.

[No. L-12012/82/2008-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present : Sri KEWAL KRISHAN, Presiding Officer

Case No. I.D. No.1572/2009

Registered on 21.1.2009

Sh. Rajesh Joshi,
S/o Sh. Tak Chand Sharma,
Sr. Vice-president,
INBEC 25m Sant Nagar,
Civil Lines, Ludhiana

.....Petitioner

Versus

The Assistant General Manager,
State Bank of Patiala,
Regional Office-III, (HP),
Sauli Khad, Mandi (HP)

The Deputy General manager,
Region-III, State Bank of Patiala,
SCO 103-107, Sector 8C,
Chandigarh

.....Respondents

APPEARANCES :

For the workman : Ex parte.

For the Management : Sh. N. K. Zakhmi, Adv.

AWARD

Passed on- 25.7.2014

Central Government vide Notification No. L-12012/82/2008 (IR(B-I)) Dated 2.1.2009, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of State Bank of Patiala, Mandi in imposing the penalty of dismissal w.e.f. 22.5.2005 on Sh. Rajesh Joshi, Special Assistant, is legal and justified? If not, to what relief the workman concerned is entitled?”

In response to the notice the workman appeared and submitted statement of claim pleading that while posted as Special Assistant in the respondent bank at Kullu, disciplinary proceedings were initiated against him by appointing an Inquiry Officer. A criminal complaint was also filed on the basis of the same allegations with CBI, Chandigarh. However, the Inquiry Officer proceeded with the inquiry and recorded a finding against him and on the basis of the illegal inquiry, he was dismissed from service vide order dated 17.11.2005.

The workman assailed the inquiry proceedings on the ground that charge-sheet was not served as per rules and presenting offer was allowed to put leading questions to the witness and he was not given any opportunity to cross-examine the witness. That the disciplinary authority passed a non-speaking order. The appeal preferred by him was also dismissed. The said orders are illegal.

Respondent management filed written reply pleading that the workman while posted in the Kullu Branch committed serious irregularities and was charge-sheeted vide charge-sheet dated 22.2.2005. He submitted reply which was not satisfactory and thereafter regular inquiry was ordered. The proceedings were adjourned on the request of the workman to engage the co-worker. That the workman failed to produce any co-worker and the Inquiry Officer proceeded with the inquiry. The workman was allowed to lead evidence in defence and he examined two witnesses besides producing documents. After considering the evidence, the Inquiry officer submitted the inquiry report and on its basis, the disciplinary authority issued a notice to the workman along with the report to which the workman filed reply. He was also given an opportunity of personal hearing and after considering the entire facts the impugned order dated 17.11.2005 was passed. The appeal preferred by the workman was also dismissed. That the inquiry was conducted as per rules and there is no illegality or infirmity in the proceedings. The claim of the workman be dismissed.

None was appearing on behalf of the workman except on few dates. The workman was proceeded against ex parte vide order dated 16.12.2013.

I have heard Sh. N.K. Zakhmi, counsel for the management and have perused the photocopies of the proceedings.

As per Annexure 1, the workman was charge-sheeted on the following grounds:-

1. That you while handling Foreign Demand Negotiation (FDN) Seat at the branch, fraudulently prepared vouchers for purchase of FDNs aggregating Rs.20,06,096.00 (Rupees Twenty lacks six thousand ninety six only) as per detail given in Annexure 'A') in the current account of M/s Nirman Forex Pvt. Ltd. and managed to get the relevant debit/credit vouchers passed by the authorized officer of the branch without entering the instruments in the FDN Register on the relevant date. Later on, it has transpired that:
 - (a) Smt. Aarti Joshi, who is the Managing Director of M/s Nirman Forex Pvt. Ltd., is your wife and other directors of the company are also your close relatives.
 - (b) The said instrument aggregating Rs. 20,06,096.00 purchased in FDN were never dispatched for realization to the concerned authorized branch i.e., our Sector 17-C Chandigarh. Since you were also looking after the despatch of FDNs, you managed detention of relevant instruments with ulterior motive. You, thus, managed to unduly accommodate M/s Nirman Forex Pvt. Ltd., your family concern in an unauthorized and in a fraudulent manner to the detriment of Bank's interest.
- (2) You deposited cash in the current account of M/s Nirman Forex Pvt. Ltd maintained at the branch under your signatures on the following dates:-

Date	Amount (Rs.)
7.8.2003	678000.00
6.8.2003	1000000.00
2.8.2003	700000.00
1.8.2003	600000.00
10.5.2003	600000.00

You thus acted unauthorizedly which clearly indicates your involvement in the affairs of the Company.

- (3) That you prepared relevant debit/credit vouchers for purchase of FDNs from M/s Nirman Forex Pvt. Ltd., aggregating Rs.443114.00 (Rupees four lacks forty three thousand one hundred fourteen only) without receipt of any foreign currency instruments as per detail given in Annexure 'B' and managed to

get the same passed by the authorized officers for credit of Rs.33005.00 (Rupees thirty three thousand five only) on 20.3.2003 to the current account No.01050060376 of M/s Universal Express, a firm where your wife Smt. Aarti Joshi is the sole proprietor and remaining amount of Rs.410109.00 (Rupees four lacks ten thousand one hundred nine only) to the current account of M/s Nirman Forex Pvt. Ltd., with the ulterior motive to unduly accommodate your said family concerns and in a fraudulent manner.

- (4) That subsequently, on 23.1.2004 you prepared debit/credit vouchers for purchase of FDNs favouring aggregating Rs.481909.00 on behalf of M/s Nirman Forex Pvt. Ltd. as per details given in Annexure C and got the same passed from the authorized officers of the branch for credit of Rs.443114.00 to FDNs account in order to adjust the aforesaid fake outstanding entries raised on various dates as per Annexure B and the remaining proceeds of Rs.38795.00 credited into Current Account No.015006033 titled 'Post and Telegram' instead of crediting the entire proceeds to the beneficiary's account.
- (5) That whereas you were not authorized to purchase any instrument in FDN, yet in violation of the Bank's instructions, you purchased foreign currency instruments as per details given below and passed the relevant vouchers yourself in an unauthorized manner.

Date of purchase	Amount in foreign Currency	Value in IRS.
20.5.2003	US\$ 500	23,175.00
23.5.2003	US\$ 1000	46,000.00
9.7.2003	US\$ 180	8,375.00

- (6) That while looking after the despatch seat, you detained the Foreign currency instruments purchased in FDNs from M/s Nirman Forex Pvt. Ltd., and did not ensure their immediate despatch to the authorized branch for realization as per extant instructions of the Bank, thereby causing loss of interest on the said purchase of FDNs to the bank to the tune of Rs.863274/- which has been detailed in Annexure 'D'.
- (7) That on 21.7.2004 when you were on leave, foreign currency instruments aggregating Rs.6863137.00 already purchased in FDN on different dates as per details given in Annexure E have been found by branch Manager lying in the unlocked drawer of your office table which were not dispatched to the concerned authorized branch for their realization.

You did not discharge your duties with devotion and diligence and hence jeopardized bank's interest.

The workman submitted reply (Annexure M2). Finding the same not satisfactory, an inquiry was order and Sh. D.D. Aggarwal was appointed as Inquiry officer. The workman denied the charges and the case was adjourned to 13.5.2005 for production of documents by the bank. On that day the documents were produced and the copies were given to the workman. The perusal of the inquiry report shows that the bank filed several documents besides examining three witnesses. The workman also filed documents and examined two witnesses. After considering the evidence, the Inquiry officer submitted a detailed report dated 14.7.2005 holding that charges are proved against him. Since the workman was attending the inquiry proceedings and even led evidence, it cannot be said that he was not given an opportunity to defend his case. The copy of the charge-sheet was supplied to him and he submitted a reply and it cannot be said that the charge-sheet was illegal in any way.

After considering the inquiry report, a show cause notice was served on the workman along with copy of the report to which the workman filed reply (Annexure M6). After going through the entire evidence and facts of the case, the punishing authority passed the impugned order dated 17.11.2005 (Annexure M7).

Thus there is no illegality in the inquiry and imposing the penalty on the workman and it is also held that the inquiry conducted in the case is fair and proper.

The bank officers are supposed to discharge their duties with utmost honesty and integrity and to protect the public money but the workman did not act with due diligence and rather wrongly prepared the record as find mentioned in the charge-sheet and as reproduced above which tantamount to gross misconduct on his part. Considering the misconduct on the part of the workman, no ground is made out to interfere in the penalty imposed by the disciplinary authority which cannot be said to be excessive. The reference is accordingly answered against the workman and he is not entitled to any relief. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2404.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बीपीएम डिपार्टमेंट/स्टेट बैंक ऑफ इंडिया प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ के पंचाट (संदर्भ संख्या 8/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/15/2014-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2404.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 8/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of M/s. BPM Department/State Bank of India and their workmen, received by the Central Government on 26/08/2014

[No. L-12012/15/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present : Sri Kewal Krishan, Presiding Officer.

Case No. I.D. No. 8/2014

Registered on 3.5.2014

Sh. Aakash Dhawan,
S/o Sh. Pradeep Dhawan,
R/o H. No. 1193, First Floor,
Sector 15-B, Chandigarh.

.....Petitioner

Versus

The Assistant General Manager,
M/s BPM Department,
Local Head Office,
Sector 17A, Chandigarh

.....Respondents

APPEARANCES

For the workman : Sh. Ravi Khanna Adv.

For the Management : Sh. S.K. Gupta Adv.

AWARD

Passed on 10.7.2014

Central Government vide Notification No. L-12012/15/2014-IR(B-I) Dated 23.4.2014, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of State Bank of India in terminating the services of Sh. Aakash Dhawan S/o Sh. Pradeep Dhawan w.e.f. 27.7.2013 is valid, just and legal? If not, to what relief the concerned workman is entitled to and from which date?”

In response to the notice, the workman appeared with Sh. Ravi Khanna, Advocate. He did not file statement of claim and rather made statement for not pressing the reference which has been recorded separately.

Since the workman himself did not press the present reference, and therefore, it cannot be said that the action of the management in terminating his services is illegal and he is not entitled for any relief. The reference is accordingly answered against the workman.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2405.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 04/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-41011/89/2009-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2405.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 04/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 26/08/2014.

[No. L-41011/89/2009-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad, Dated 21st May, 2014

Reference adjudication order No. L-41011/89/2009-IR(B-I)

Reference : (CGITA) No-4/2011

1. The General Manager,
Western Railway,
Churchgate,
MUMBAI
2. The Divisional Manager,
Western Railway,
Near Chamunda Bridge, Asarwa,
AHMEDABAD(GUJARAT)

3. The Dy. Chief Electric Engineer (construction)
Western Railway,
Near Reservation office,
Kalapur,
AHMEDABAD (GUJARAT)First Parties

And

The General Secretary,
Paschim Railway Karmachari Parishad,
28/B, Narayan Park, Behind Railway Station,
Chandkheda,
AHMEDABAD (GUJARAT)Second Party

For the First Party : Shri Vinod K. Bhatt, Advocate

For the Second Party : Shri Raghuvir Singh Sisodia,
President, (P.R.K.P)

AWARD

The Government of India/Ministry of labour, New Delhi vide its order No. L-41011/89/2009/IR(B-I) dated 01.02.2011, referred the dispute for adjudication to this Tribunal in respect of the matters specified in the Schedule:

SCHEDULE

“Whether the action of the management of Western Railway in not giving the compassionate appointment to Shri Niramal Ganpat Tomar S/o Late Ganpat Babusingh Tomar and in not giving legal dues to the widow Smt. Kamala Devi of the deceased employee, is legal and justified? If not, what relief the workman is entitled to?”

2. The case of the 2nd party (Union) as per statement of claim (Ext.7) is that late Ganpat B. Tomar was working in group D under electrical foreman and he was initially appointed in Ahmedabad on 28.07.1980. He was lastly working at Bhuj Railway station on 02.01.1984. on that day he was working on the electric pole and due to receiving short circuit current he expired on that date 02.01.1984. under the provision of workman's compensation Act, 1923, the widow of deceased Ganpat Babubhai Tomar was granted compensation by Bhuj labour court and the 1st party employer (W.Rly) paid compensation of Rs. 21,000/- to widow. Thereafter the 1st party has not paid any other legal dues admissible under service rules. According to Railway Rules, a workman who has completed one year service and during course of employment., if he meet with accident and expires, his widow is entitled for pensionary benefits. The deceased workman had completed about 4 years continuous service. Without considering this aspect the 1st party employer did not grant family pension or any other benefits. Because of demise of Ganpat and also due to illiteracy, his widow was not in a position to submit application seeking for compassionate appointment. At the time of death of Ganpat, his son Nirmal Ganpat Tomar was minor and the widow of Ganpat and mother of minor Niramal

could not submit an application for compassionate appointment of son. When Niramal attained the age of 18, he submitted application in the office of the 1st party employer on 04.02.2001 which was received in the office. As per Rule and regulation of Railway circular dated 07.01.1997 there is provision for compassionate appointment with provision for relaxation of time limit and the son/daughter of Deceased Rly employee can submit application within two years of attaining age of majority. The 1st party has not given reason nor rejected the application of Nirmal Son of deceased employee. More so, the widow of deceased workman is also entitled for pensionary benefits but it was also not provided. There is no delay in raising dispute by the 2nd party union. The 1st party have violated the rule and G.S.O. dated 07.01.1997. On these grounds, prayer is made for directing the 1st party to give compassionate appointment to the son of deceased workman Ganpat and also for grant of family pension to widow of deceased workman and also for any other relief to which the son and widow of deceased workman are found entitled.

3. As against this the case of the 1st party inter alia as per written statement (Ext.16) is that the dispute raised through the Union (P.R.K.P.) under this reference is not maintainable since the persons claiming the relief are not made party applicant. Objection has been taken the D.R.M. Ahmedabad is not necessary party since deceased workman was not working under D.R.M. Ahmedabad when he died. Further case is that as per record of deceased, his surname is 'Sharma' and not 'Tomar'. More so, deceased Ganpat was working on temporary basis with temporary status and was not regularly employed by the Railway administration. Death of deceased workman Ganpat on 02.01.1984 has been admitted. But it has been contended that application for compassionate appointment has been filed on 02.04.2001 which is time barred and not tenable. More so, seeking for compassionate appointment is not a matter of right. Neither he widow nor the son of Ganpat (Deceased workman) has made any application or communication to the 1st parties. The alleged application of widow of deceased made in the year 2001 is addressed to Dy. C.E.E. (C) Ahmedabad, whereas there was no such post at Ahmedabad and so no such communication is received by the 1st party. Dispute by Niramal Singh Tomar, son of deceased and Kamala Devi, widow of deceased have not been separately raised for entitlement rather the dispute has been raised through Union. Para 1,2,3,4, of the statement of claim are not correct and so have been denied. It has been denied that widow of Ganpat was not in a position due to illiteracy that she could not make application soon after death of her husband either for the compassionate appointment or for family pension. The averment of Para 5 to 7 of S/c are not correct. There is no right for getting compassionate appointment and there is no provision to condone such long delay of 18 years in

making application for compassionate appointment. Railway service pension Rules 1993 is not applicable in this case and so widow of deceased Ganpat is not entitled for family pension. The reference is barred by delay and laches since the dispute has been raised at much belated stage. Para-8 of S/c has also been denied. On these scores, prayer is to dismiss the reference.

4. In view of the pleadings of the parties the following issues are taken for determination:

ISSUE

- (i) Is the reference maintainable?
- (ii) Whether the 2nd party (Union) has valid cause of action to raise dispute seeking for reliefs for the son and widow of the deceased workman?
- (iii) Whether the action of the management of western Railway (1st party) in not giving the compassionate appointment to Mr. Nirmal Ganpat Tomar, son of late Ganpat Babusingh Tomar is legal and justified?
- (iv) Whether the action of the management of Western Railway (the 1st parties) in not giving legal dues and family pension to Smt. Kamaldevi, widow of late Ganpat Babusingh Tomar is legal and justified?
- (v) To what relief the 2nd party is entitled?

FINDINGS

5. ISSUE No.:- (iii):- some admitted facts in this case are as follows. Deceased Ganpat Babusingh Tomar was a group (iv) (D) railway employee and he joined the service on 28.07.1980. He was working in Rly. Electricity wing at Bhuj Railway station on 02.01.1984. In course of duty in the employment of Railway (the 1st party) he met with accidental death due to severe electric shock and died. Further admitted position is this that Smt. Kamala Devi is the widow of deceased workman Late Ganpat Babusingh Tomar. This is also not disputed that Nirmal Ganpat Tomar is the son of deceased workman and Smt. Nirmala Devi is her mother. Admitted position is that deceased workman had already been given temporary status by the 1st party and he served the 1st party employer for 3 years 4 months & 5 days.

6. The bone of contention in this case between the parties is that according to 2nd party the widow and son of deceased workman have submitted application for appointment on compassionate ground on 02.04.2001 in the office of the 1st party at Ahmedabad which was received by clerk with endorsement. The case of the 2nd party is that as per Railway rules application for compassionate appointment was submitted within two years of attaining age of 18 years by Niramal since at the time of death of his father he was very minor. On the other the plea of the 1st party is that no such application dated 02.04.2001 was received by any Railway staff with

endorsement of forwarding and that on 02.04.2001 there was no post of Dy. CEC(C) at Ahmedabad and so the so called application dated 02.04.2001 was wrongly addressed to Dy. CEC (C) Ahmedabad.

7. The second bone of contention in this case between the parties is that according to the 2nd party as per Railway service pensionary Rules, 1993, Rules-3 before the completion of one year of continuous service provided the deceased railway servant is concerned immediately prior to his appointment to the service or post was examined by the appropriate medical authority and declare fit by the Authority for Railway Service, family pension and legal dues has to be granted to widow whereas the plea of the 1st party is that the deceased was casual worker with temporary status and so as per rule his widow is not entitled for family pension or any legal dues.

8. Two witnesses have been examined on behalf of the 2nd party by filing affidavit in lieu of examination in chief. Ext.10 is affidavit of Kamala Devi widow of late Ganpatsingh Babusingh Tomar. Vide para 2 she states that his son Nirmal Ganpat has submitted application for his compassionate appointment in place of deceased husband and vide Para 3 she states she has no objection if her son is given compassionate appointment. She was cross examined by the 1st party lawyer at length. She states vide para 5 that only son born to her from her late husband and she has no daughter. Vide para 8 this case has been filed for purpose of getting compassionate appointment to her son. Vide para-9 she was no living at the working place (Bhuj) of her late husband, rather she lived at Ahmedabad, she states that application for compassionate appointment was filed mentioned her husband's surname "Tomar" and not "Sharma". Vide Para 10 her son Nirmal is unemployed. Vide para-10 she is illiterate and used to put thumb impression on paper. She in her evidence has put thumb impression. Vide para 11 she has no personal knowledge whether application was submitted in the Rly dept. at Bhuj or where. It is admitted position that cause has been taken by the Union(P.R.K.P.) by making demand and not by the aggrieved person-Nirmal or Kamaladevi (Son and Widow of deceased) in individual capacity second witness of the 2nd party is retired Railway employee Mr. Mahendra kumar Omprakash Vashist who was senior clerk in the establishment of the 1st party. He in his affidavit (Ext.25) says he was working as senior clerk in the office of senior section Engineer (Electrical Construction) Ahmedabad from 21.02.2000 and vide para-2 he had received application submitted by widow of Ganpatsingh Babusingh on 02.04.2001 and as part of duty he forwarded the application to Divisional Electrical Engineer (construction) Ahmedabad for further necessary action. He retired from services in the year 2011 as per para-1 (last line) Ext.25/1 is Xerox copy of Resumption report of this witness M.O. Vashishtha to DEE (C) A.D.I. dated 21.02.2000 in proof that he was working as senior

clerk from 21.02.2000 at the office of senior section Engineer (Electrical Ahmedabad. Ext. M-25/2 is Xerox copy of D.E.E.(C) 's office Ahmedabad-2 memorandum dated 22.02.2000 that Shri M.O. Vashishtha joined in this office on 21.02.2000 (BN) and posted under SSE (E) S&C /ADI with notes the employee will be sent back to his parent division when project works completed. The 1st party has not disputed and has no reason to make dispute that Shri M.O. Vashishtha was not posted as Sr. Clerk in the office of Sr. section Engineer Ahmedabad on 02.04.2001. Vide para-5 in cross examination he says he had forwarded the application since on that day 02.04.2001 saheb [S.S.E. (E)] A.D.I. was not in the office. Vide para-8 office of Dy. Electrical Engineer is situated at Saraspur. He deposed that application received by him on 02.04.2001 was handed over to office superintended at Kalupur. In his office, there was no facility of making inward/outward of any papers and that he has not make inward entry of the application dated 02.04.2011. He identified the copy of that application (Ext.9/2) was submitted on that day by son of deceased workman who had come with his mother for submitting application and that he had forwarded the application to Junior Electrical Engineer with enclosure. He identified his signature on forwarding endorsement of Ext. 9/2. He denied to have given false evidence. Nothing could have been gained by the 1st party to discredit the testimony of the 2nd party witness M.O. Vashishtha (Ext.25).

9. The 2nd party has submitted nine documents as per list Ext.9 which are M 9/1 to 9/9. The papers at Ext. 9/1 are regarding payment of compensation of Rs. 21,000/- to deceased's widow by way of two F.D. of Rs. 10,000/- each and cheque of Rs. 1000/- for expenses as per order of workman compensation commissioner, Bhuj by the Rly. Dept. that go to prove relation of Nirmal and Kamaladevi as son and widow of deceased Ganpatsingh Babusingh Tomar. Ext.9/2 is Xerox copy of application of Nirmalsingh Ganpatsingh dated 02.04.2001 addressed to Dy. Chief Electrical Engineer (construction) W.Rly Ahmedabad on the subject of for giving compassionate appointment. At the foot of application there is forwarding endorsement—"forwarded to D.E.E. (C) Ahmedabad for next necessary action please" containing signature of M.O. Vashishtha Sr. clerk dated 02.04.2001 that go to support the evidence of M.O. Vashishtha (Ext.25). Ext.9/3 is Xerox copy of application of Kamaladevi addressed to Dy. C.E.E. (construct) Ahmedabad dated 02.04.2001. On the subject compassionate appointment praying there in for giving service to her son on compassionate ground since her husband died in course of duty and at the time of death her son was only one year old and that she had also given application at that time that on attaining age of 18 years her son be given appointment. Ext.9/3 is copy of letter dated 15.03.1984 of the 1st party(financial Advisor) and chief accounts officer (S&C) W.Rly Ahmedabad

addressed to the commissioner of workman's compensation & Civil Judge (Sr. Division) Bhuj (Kutch) regarding payment of death compensation to late Ganpatsingh Babusingh Khalasi under electrical charge man (construction) Bhuj forwarding with affidavit (Ext.9/4 of Smt. Kamaladevi Widow of Ganpatsingh Tomar with enclosure of Xerox of service record of deceased sowing his name Ganpat Singh Kshatri S/o Babusingh Kshatriya. At that time the 1st party (W.Rly) had not made objection of having surname 'Kshatri' or surname which has been taken now in w.s (Ext.16). Ext. 9/5 is Xerox copy of order of Head quarter churchgate, Mumbai dated 07.1.1997 on the subject-appointment on compassionate grounds-relaxation of time limit which clearly says that the application for appoint is submitted within 2 years of attaining the age of majority by the candidate. Para-3 of letter clearly indicate that request for compassionate ground appointment received within 20 years from the date of death of employee..... the same should be decided at the G.M.'s level and should not be referred to the Railway Board. Ext.M-9/8 is copy of reminder letter of Kamala Devi widow of Ganpatsingh Tomar addressed to D.R.M. Ahmedabad dated 11.12.2004 with reference to earlier letter dated 02.04.2001 requesting for giving compassionate appointment to her son Nirmal Singh Ganpatsingh Tomar whose birth date is 30.12.1983 also narrating the fact that after death of her husband on 02.01.1984 she had gone to sasural at Village Ladra post, sarsed, Dist. Chhatarpur(M.P) along with infant child. The 2nd party filed three documents with list Ext.31 on 28.11.2013. Ext.31/1 is Xerox copy of post-mortem report showing name of deceased employee Ganpatsingh S/o Babusingh. Ext.31/2 is Xerox copy of accident report by the 1st party Western Railway in printed form under workman's compensation Act,1923 in which the 1st party has mentioned name of deceased employee Ganpat Singh S/o Babusingh. There is nowhere mention as to surname 'Sharma' as incorporated in W.s (Ext.16) and also coming in evidence of 1st party witness Rajesh Vadilal Shah (Ext.19) vide para 6 saying deceased Ganpat reflects as "Sharma" and not as "Tomar" on the basis of Ext. 21/1 copy of memorandum dated May,1981 of the office of DEE (Construction) Ahmedabad-2. This is not service record of the deceased Ganpat rather in office memorandum in which at Sl. No. 6 name Shri Ganpat b. Sharma date of appointment on 27.09.1980 and date of completion of 6 months continuous service 26.03.1981, date of eligibility of scale 27.03.1981 etc. has been indicated. On the other hand form perusal of Xerox copy of service record filed by the 2nd party in the Annexure of 9/4 shows name Ganpatsingh Chhatri S/o Babusingh Chhatri and date of appointment 22.09.1980 and the I. Card issued to deceased also show Ganpat Singh Tomar (Chhatri) S/o Babusingh Tomar (Chhatri) and not surname 'Sharma'. The 1st party witness did not submit the original

service record/personal filed deceased Ganpat purposely. Only for highlighting the typical error of surname 'Sharma' instead of Tomar/Chhatri. More so, the second document of the 1st party Ext.21/2 go to show Ganpatsingh Babusingh Khalasi 5/61 with endorsement transfer from SBE(C) ADI's (D. of Appt.27.09.1980 date of grant of T.S. 27.03.1981. So apparently at Ext.21/1 there is typing mistake in typing surname 'Sharma' which has been rectified vide Ext.21/2. So the own documents of the 1st party go to falsify the contention that in the service record surname is 'Sharma' and not Tomar/Chhatri. In view of the matter the evidence of the 1st party witness (Ext.19) denying the claim of the 2nd party does not inspire confidence. Ext.31/3 is Xerox copy of secondary school examination certificate showing date of birth of Nirmalsingh Tomar, mother's name Kamala, father's name Ganpatsingh to be 30.12.1983. He passed supplementary 10th exam,2000 from Govt. Model Hr. Sec. School, Nowganj, Chhetarpur(M.P).

10. On behalf of the 1st party Shri V.K. Bhatta, Learned Lawyer has relied upon case law reported in A.I.R. 2012 S.C. 2294-claim for compassionate appointment has to be considered in accordance with rules, regulations taking into consideration financial condition of family of deceased. In the given case law, it was held compassionate appointment can be refused to the claimant if his family gets terminal benefits exceeding Rs. 3 lakh. This case law does not appear to be applicable in the instant case because due to death of the workman Ganpat in course of employment of the 1st party he met accidental death due to electric shock while working on electric pole of rly construction department at Bhuj Railway station and a meagre amount of Rs. 21,000/- was allowed to widow Kamala from Bhuj court and the 1st party only paid it and no other legal dues were paid to widow and at the time of death claimant Nirmal S/o deceased Ganpat was very minor and on attaining age of 18 he and his mother Kamala submitted application on 02.04.2001 for giving compassionate appointment and that application had been filed within two years of attaining the age of 18 (majority) by Nirmal which was forwarded for consideration by receiving Sr. clerk but thereafter due to own fault of railway officials the application with attached annexure were not sent to the G.M./1st party No.1 for consideration and the matter remained in abeyance due to own mistake of the 1st parties. It has also to be taken into account that deceased's widow Kamala was having an infant (Nirmal) in her lap so she cannot be free to have compassionate appointment for herself rather she went to her native place Sasural with infant for nourishing anyhow and the amount of compensation under W.C. Act, 1923 and monthly remittance of some money from the fixed deposit was not sufficient towards up keeping of widow and infant in absence of legal dues like deceased's P.F. money, gratuity and non-grant of family pension etc. More so, even the reminder application of

widow Kamala with reference to early application dated 02.04.2001 (vide Ext. M 9/8) no heed was paid by the 1st party as to consideration of compassionate appointment of Nirmal Singh Tomar in class IV according to his qualification or even as casual labourer.

11. So as per discussion and consideration in the foregoing paras of the entire evidence oral and documentary of the parties, I am of the considered view and therefore find and hold that the action of the management of Western Railway (1st party) in not giving the compassionate appointment to Shri Nirmal Ganpat Tomar, Son of late Ganpat Babusingh Tomar is illegal and unjustified. This issue is answered in negative and decided against the 1st party.

12. **ISSUE NO. (iv) :-** As per Family pension Scheme for Railway Servants, 1964 (Ext.9/6) (a) After completion of one year of continuous service.... The family of the deceased shall be entitled to a family pension 1964 as per rate of family pension indicated in the table. It is admitted position that deceased Ganpat Babusingh Tomar (Chhatri) had completed 3 years 4 months and 5 days of continuous service and has been granted T.S. and had been given regular scale of class iv. So it was boundent duty of the 1st party from instructing welfare Inspector to make contact and to collect relevant papers with application of widow Kamala for allowing her family pension since after death of workman Ganpat Babusingh Tomar in course of duty at Bhuj Rly. station. It was also duty of the 1st party to clear all the legal dues to the family of deceased but those were denied payment of amount of Rs. 21,000/- under W.C. Act, 1923 cannot be said to be payment of legal dues. The 2nd party has relied upon a case law of Prabhavti Devi vs. Union of India and others (1996 (1) Supreme 14 where in it has been held-where deceased had acquired a temporary status and on his demise, his widow and children would acquire the right to claim family pension under sub rule 3(b) of Rule 23/1 of Rules applicable to Railway Establishments. More so, as per Railway services (pension) Rules, 1983 Rule 18(3). In the event of death in harness of a temporary railway servant his family shall be eligible to family pension and death gratuity on the same scale as admissible to families to permanent railway servants under these rules. The accidental death of Ganpat in course of employment of the 1st party due to electric shock received by him on electric pole, resulting in his death can be said to be death in harness. In the case law of S.K. Mastan Be vs. G.M. South Central Railway and another (2003 Supreme Court cases (L&S) 93 it has been held – where a gang man under railway died while in service and his widow was illiterate and unaware of her right to family pension and the remedy to enforce that right held it was obligatory for Railway to compute the payable family pension and offer the same to the widow even without the making of a claim or initiation of litigation on

her part. In the instant case when the Railway Administration failed to take initiative then the Union swung into action for redressal by raising dispute for the cause of widow not getting legal dues including family pension and son of deceased not getting compassionate appointment since after attaining the age of majority.

13. As per discussion and consideration made above, I am also of the considered view and therefore find and hold that the action of the management of Western Railway (the 1st parties) in not giving legal dues and family pension to Smt. Kamala Devi, widow of late Ganpat Babusingh Tomar is illegal and unjustified. This issue is also answered in negative and is decided against the management of the 1st parties.

14. **ISSUE NO.(i) & (ii) :-** As per findings to issue No. (iii) & (iv) in the foregoing paragraphs, I further find and hold that the reference is maintainable and the 2nd party (union PRKP) has valid cause of action to raise dispute seeking for reliefs for the son and widow of the deceased workman.

15. **ISSUE NO. (v) :-** As per findings above, the claimants Nirmal Ganpat Tomar- son of deceased Ganpat Babusingh Tomar is entitled for compassionate appointment in this case. The widow Kamala Devi is also entitled to get legal dues including family pension since after death of her husband workman on 02.01.1984. This issue is answered in affirmative and decided in favour of the 2nd party.

The reference is accordingly allowed. However, no order of cost.

The management of the 1st parties are directed to give compassionate appointment to Nirmal Ganpat Tomar and to provide family pension to Smt. Kamala Devi, the son and widow of deceased workman Ganpat Babusingh Tomar, within two months of receipt of copy of award. The arrear amount of family pension to Kamala Devi will carry interest @ 9% P.A.

This is my award

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2406.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 07/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-41011/07/2011-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2406.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 07/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 26/08/2014.

[No. L-41011/07/2011-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad, Dated 21st July, 2014

Reference (CGITA) No. 07/2012

Adjudication order No. L-41011/07/2011-IR(B-I)

The Divisional Railway Manager,
Western Railway,
Near Chamunda Bridge,
Asarwa,
Ahmedabad (Gujarat)

..... (1st party)

And

Their workman

Through the President,
Paschim Railway Karmachari Parishad,
28/3, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad (Gujarat)

.....(2nd party)

For the First Party : Shri Navin S. Vaghela, Advocate

For the Second Party : Shri Raghuvir Singh Sisodia,
President (P.R.K.P.)

AWARD

The Government of India/Ministry of Labour, New Delhi after reconsidering the matter in S.C.A. No. 13548/2011 that an Industrial dispute exist between the employers in relation to the management of Western Railway and their workman then in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, by order No. L-41011/07/2011 (IR(B-I)), New Delhi dated 27.12.2011, referred the dispute for adjudication to this Industrial Tribunal, (C.G.I.T.-cum- Labour Court,

Ahmedabad) for adjudication in relation to the matters specified in the Schedule:-

SCHEDULE

“Whether the demand of the president Paschim Railway Karmachari Parishad, Ahmedabad for changing the cadre of licenced Porter to Gangman by the management of Divisional Railway Manager, Western Railway, Ahmedabad is justified? To what relief the Union/workman is entitled?”

2. The case of the 2nd party Union as per statement of claim (Ext.3) is that Union raised a charter of demand against the employer (1st party) seeking relief that the ten number of workman involved in this case are entitled to go back to their original cadre of Gangman where their lien exist, which was not considered. The grievances of Union was that the workman involved in this present dispute were initially appointed as Gangman. The Railway Board issued an Office order/circular informing that if any Gangman wants to become coolie, he can do so. Accordingly the workman involved in this case shown their willingness to become coolie. Thereafter, the workman continuously worked for a period of one year as coolie but on account of facing difficulties in working as coolie, they decided to come back to their original cadre of Gangman. The involved ten workman submitted applications to the management of the 1st party showing their desire to revert back to their original cadre of Gangman, but no response made by the 1st party employer. As per service Rules of Railway, if any workman changes his cadre then upto period of two years he can come back to his original cadre and his lien exist for two years in the original cadre. The lien of two years in the original cadre of the ten involved workman has not expired and same exist and so they have right to come back to their original cadre. Since the claim of the 2nd party workman was not considered by the 1st party employer, so the dispute was raised by the 2nd party. Several numbers of posts of Gangman are vacant and the claim of the 2nd party workman is required to be considered in the interest of W.Rly Dept. On these grounds, prayer is made to allow the reference and to direct the 1st party to consider the request of the 2nd party workman for coming back to the cadre of Gangman and to grant the difference of wages arising out of change of cadre.

3. The case of the 1st party (W. Rly) as per written statement (Ext. 8) pleading inter alia is that contents of para 1 and 2 of statement of claim are factual in nature and needs no reply. The contents of para-3 of S/c is denied and not admitted because licenced porters were absorbed as Gangman on the one time measures according to Railway Board Policy vide No. E (NG) II/2008/RR-3/1 dated 01.04.2008. The 2nd party workman had shown their willingness to become porters/coolie accordingly they were reverted back to their feeder cadre of coolie/licence

porter from Gangman in pursuant to the policy issued by Railway Board vide No. E (NG) 11/2008/RR-3/1 dated 25.09.2013. As soon as they (workman involved) given consent and resigned from the service of Gangman they are ceased to be Railway servant and no rules and policy is applicable to them which is framed for railway servants. The policy of lien is also not applicable to the license porters because they are not railway servants as defined in Railway Act. para 4 of S/c is denied and not admitted because all the vacancies in the railway whether it is group 'D' fill up according to the extent rules, policy laid down by the Railways. The appointment of licenced porters to the post of Gangman has been given as a onetime measure as per policy. On these scores, prayer is to reject the reference since the 2nd party/Union/workman is not entitled to get relief as claimed.

4. In view of the pleadings of parties the following issues are taken for determination.

ISSUES

- (i) Is the reference maintainable?
- (ii) Whether the 2nd party has cause of action to raise dispute against the employer (W. Rly.)?
- (iii) Whether the demand of the President Paschim Railway Karmachari Parishad, Ahmedabad for changing the cadre of licenced porter to Gangman by the management of Divisional Railway Manager, Western Railway, and Ahmedabad is justified?
- (iv) What relief the union/workman is entitled? What directions are to be issued?

FINDINGS

5. **ISSUE NO. (iii) :-** The 2nd party (Union) submitted three documents with a list (Ext.5). Ext. 5/1 copy of charter of demand raised by P.R.K.P. Vide letter dated 25-5.2010 addressed to the General Manager, Western Railway, Churchgate, Mumbai-20 and the D.R.M. Western Railway, Ahmedabad and its copy also forwarded to A.L.C. (Central) Ahmedabad, R.L.C. (Central), Ahmedabad and Chief Labour Commissioner (Central), New Delhi. The demand raised was as to taking back ten workmen as Gangman which have been reverted back to coolie and reason is given that these workmen due to not being aware of the rules came back to coolie from the post of Gangman where they worked for about two years. The names of ten involved workman is as follow, (1) Ramsingh Khilari Ramjogi, (2) Amarsingh Babulal Gogi, (3) Ramsingh B, (4) Radhesham Ramswarup, (5) Kaamal Chhotalal, (6) Imrankhan Abdul Rashid, (7) Mhd. Farookh BadarAli, (8) Hamid Allanoor, (9) Babloo Rameshwar Jogi, and (10) Amar Singh Harfool. These workmen individually submitted applications to the D.R.M. Ahmedabad on the subject of recall of their resignation from the post of Gangman since they had no knowledge of railway rules and they could

not have got correct advise at the time of tendering resignation and they are willing to go back to work as Gangman for which there are lot of vacant posts of Gangman. Ext. 5/2 is copy of application of Mohd. Farookh Badar Ali, one of the involved workmen out of ten. Ext. 5/3 is copy of circular dated 10.09.1999/12.10.1999 of Western Railway Head Quarter Office, Churchgate Mumbai. Under the existing rules 2 (1) para 6 of master circular No. 30 has been substitute- "6 retention of lien of Railway servants who get selected for post in other Central Government Departments and termination of lien and severing connection....." This is not disputed that the above ten involved workmen who were earlier working as coolie had applied for the post of Gangman and they had been selected and were appointed as Gangman and they worked in the gang for about two years. This is also admitted position that much before expiry of lien period of two years as Gangman those ten involved workmen and others who were reverted back to coolie/porter with their respective badges gave second thought after being aware of rules and applied for recall of their resignation from the post of Gangman and to send them back to the post of Gangman. Such applications were submitted by the workman much within two years of expiry of lien where they can come back to their original cadre of Gangman as per substituted circular para-6 narrated above.

6. The stand of the 1st party (Management of W.R. D.R.M., Ahmedabad) is that appointment of licenced porters to the post of Gangman has been given as a onetime measure as per Railway Board's Letter No. (NG) 11-2008/RR-3/1 dated 01.04.2008 marked Ext. 8/1/R/1 and mark R/2 attached with w.s is now Ext. 8/2. This is Head quarter office, Churchgate, Mumbai letter dated 07.10.2009 circulated to all concerned on the sub appointment of licenced porters to the post of Gangman. This was reproduction of Railway Board's letter No..... dated 25.09.2009 for information and taking action. The salient features of this letter is "Subsequently, representations have been received from various quarters, forwarding the requests of some licenced porters, who have been screened but have not yet joined the post, for return of their badges/licences as they are reluctant to work as Gangman..... Who now want to revert back as licenced porters at the same where there were working before subject to the condition that there is need for licenced porters at the same station..... In the case of licenced porters who have joined the post of Gangman, they are required to resign from Railway service, subject to usual terms and conditions, before they are allowed to revert back as licenced porters. As per letter it was a onetime measure for licenced porters for allowing them to revert back as licenced porter.

7. One of the involved workman namely Hamid Allaanoor representing other 9 involved workman in his affidavit examination in chief (Ext.9). He state at para-11

during cross examination that he and other 9 persons were appointed as Gangman in May 2008 and June 2008 and they had worked as Gangman for 19-20 months. Vide para-2 he states while working as Gangman, the railway administration had no grievance against them. Vide para-3 he deposed that due to having not aware of rules the railway administration reverted them back to licenced porter/coolie and within one month of reverting back to coolie they again filed application requesting for sending to original cadre of Gangman. Vide para 4 he also states that he/they requested to railway administration to treat the period of reverting back to coolie as leave and to allow him/they to work as Gangman, Vide para-5 states he/they since served as Railway servants in the capacity of Gangman so his/their lien will remain there for two year for reverting back to the post of Gangman. During cross examination on behalf of the 1st party he stated vide para-16 that they (involved workman) and others had submitted applications for again reverting them some of the person who were reverted to coolie from Gangman have again been sent to the cadre of Gangman on submitting application but they were denied that opportunity. He volunteers that those are working presently in the side of Palanpur as Gangman. He showed ignorance that railway used to recruit as Gangman on fresh application.

8. Now coming to examine whether there are material to show that any person who was appointed as Gangman from licenced porter as one time measure even on submitting resignation to be reverted to licenced porter, have been retained again as Gangman on submitting application praying therein to recall resignation and to send back to original cadre of Gangman. The witness of the 1st party namely Shri Omprakash Upadhyay serving in the office of D.R.M. W.R.Ahmedabad during cross examination on his affidavit (Ext.11) vide para-8 those Gangman who had submitted application to be reverted back to coolie, they again had submitted applications that they be sent back to the post of Gangman and that a departmental noting was moved and he serving as Asst. Personal Officer (Eng.) had assented in the noting for sending them/repatriating them as Gangman. However denied that some person who reverted back to coolie have been taken again as Gangman. On behalf of the 1st party the application of one Nemisingh dated 23.11.2009 addressed to D.R.M. Ahmedabad has also been submitted marked Ext.12/1 which is for recall of his resignation from the post of Gangman and there is noting endorsement on top of his application (Nemisingh willing not to resign). On behalf of the 2nd party three documents with list Ext.12 has been submitted and mark Ext. 12/1, 12/2 and 12/3. Ext. 12/1 is copy of letter dated 11.11.2009 of Western Railway Divisional Office, Ahmedabad on the subject of returning of Badges to the Gangman posted from licensed porters. Through this letter resignation of 22 Gangman were

accepted who were earlier appointed from licence porters were allowed to revert back as licence porter and for return of the Badges of coolie. The name of Nemisingh S/o Surajsingh is at Sl. No. 5 having Badges No. 1588/117. Ext. 12/2 is identity card No. 393463 of Nemisingh working as gangman. Ext. 12/3 is salary slip No. 00021 month of September 2013 of Nemisingh S/o Surajsingh showing him still working as Gangman and getting salary per months. Ext. 14/1 is money receipt in the name of Nemisingh S/o Surajsingh for renewal of his coolie licence fee of Rs. 60 dated 13.02.2007, speak a volume to show that this Nemisingh S/o Surajsingh had also resigned from Gangman as per order of divisional office, Ahmedabad dated 11.11.2009 and return of Badges No. 1588/117 and he renewed his Badge of licence porter video Ext.14/1. The attention of the 1st party witness (Ext.11) was drawn at para 8 by showing Ext. 12/1 to which he stated that this letter was issued with his signature in which at Sl. No. 5 name of Nemisingh is mentioned who was reverted back to coolie from Gangman. He admits to Ext. 12/2 as to identity card of Nemisingh as Gangman. He also admitted Ext.12/3 which is pay/salary slip of Nemisingh who is working as Gangman at Mehsana. He admitted that workman involved in this case was not taken back in the cadre of Gangman. From Ext.12/1 it appears that involved workman Mohd Farookh at Sl. No. 1, Amarsingh S/o Babulal at Sl. No. 11, Amarsingh S/o Harfool at Sl. No. 20 who had also submitted applications as that of Nemisingh S/o Surajsingh for recall of resignation and to send back them as Gangman were not sent back and case of Nemisingh S/o Surajsingh was considered who also returned back his badge and who also renewed his porter licence and even then he was sent back to the post of Gangman and is drawing salary of Gangman presently but the workman involved were denied opportunity to be repatriated as Gangman and were rendered in the capacity of private coolie job and were deprived of their right to go back and to be repatriated within two years of lien period. So it go to show that the railway administration has not adopted impartial attitude towards the demand raised by the Union taking cause of the ten workman involved in this case.

9. The question is when the resignation of Nemisingh S/o Surajsingh was considered as not voluntary in view of his application dated 23.11.2009 (Ext.14/1) even on getting back his Badge with renewal porter licence (Ext.13/1) then why not resignation of Hamid Allanoor (Ext.13/2), Ramsingh Khilari Ram (Ext.13/3), Imrankhan (Ext.13/4), Babloo Jogi Rameshwar (Ext.13/5), Radhesham (Ext.13/6) and so on so of other involved workman were considered as not voluntary as that of Nemisingh S/o Surajsingh in view of their submitting separate application Ext. 13/3 Hamid Allanoor, Babloo Jogi, Rameshwar, RamSingh S/o Khilari Ram, Amarsingh S/o Harfool, Kamal Jogo, Radhesham, Mohd. Farookh Badar Ali, Imran Khan as per

Xerox of application for recall of resignation to allow to work as Gangman and of Amarsingh S/o Babulal (Ext.14/2-1) to allow him to work as Gangman by recall of resignation. More so, one Ramhans Jogi S/o Manmal Jogi as Gangman had been issued S.F. of memorandum of charge as Ext. 14/3/1 & 3/2 dated 04.02.2010. That go to show that one of the involved workman Ramhans Jogi working as licence porter after reversion but was issue chargesheet on his Gangman address other involved workman were not allowed to go back to work as Gangman after submitting application within a month of reverting back to licence porters. As per Ext. 14/3 the workman Ram Hans Jogi had prayed vide application dated 15.03.2010 that he should be kept on work as Gangman but was not taken back even issuing SF charge on address of Gangman at Gandhidham.

10. Thus as per discussion and consideration of the materials on the record by way of oral and documentary evidence of the parties, I am of the considered view and therefore, find and hold that the demand of the president Paschim Railway Karmachari Parishad, Ahmedabad for changing the cadre of ten licenced porter to Gangman by the management of Divisional Railway Manager, Western Railway, Ahmedabad is justified? The main issue is answered in the affirmative in favour of the 2nd party.

11. **ISSUE NO. (i) & (ii):-** In view of the findings to the main issue No. (iii) in the foregoing paras, I further find and hold that the reference is maintainable and the 2nd party has valid cause of action to raise dispute against the management of W.R. D.R.M. Ahmedabad (1st party).

12. **ISSUE NO. (iv):-** In view of the findings above, the Union/workman involved are entitled for repatriation to the original appointment of Gangman with continuity of service but without back wages. The management of the 1st party is directed to comply with this award within two months of receipt of the copy of award by issuing appropriate letter/order as to repatriation of the involved workman as Gangman.

The reference is allowed. No order of cost.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2407.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 483/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-41012/174/2001-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2407.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 483/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 26/08/2014.

[No. L-41012/174/2001-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad, Dated 4th July, 2014

Reference: (CGITA) No. 483/2004

Reference: (I.T.C) No. 33/2002(old)

1. The Divisional Railway Manager,
Western Railway, Rajkot,
RAJKOT-360001 (GUJARAT)
2. Senior Divisional Mechanical Engineer,
Western Railway, Diesel Shed,
New Railway Colony, Sabarmati,
AHMEDABAD (GUJARAT)-380019First Party

AND

Their Workman

Through General Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar,
Near New Railway Colony, Sabarmati,
AHMEDABAD (GUJARAT)-380019Second Party

For the First Party : Shri Mukesh Pandit, Advocate

For the Second Party : Shri Raghuvir Singh Sisodia,
President, P.R.K.P.

AWARD

The Government of India/Ministry of labour, New Delhi vide its order No. 41012/174/2001-IR(B-I) dated 19.04.2002, referred the dispute between the employers in relation to the management of Western Railway, Rajkot and their workman for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matters specified in the Schedule:

SCHEDULE

“Whether the employees of the Canteen run by the elected secretary from amongst the employees of the Diesel Shed, Sabarmati shall be deemed to be employees of Railway? If yes, then whether the action of the management of Divisional Railway Manager, Western Railway, Rajkot in denying Temporary status to Shri Mahendrabhai Vallbhai, Kantibhai Pithbhai Ishwarbhai Kantilal Dave, Prakashbhai Ashokbhai, Jeevanbhai Jerambhai, Vishwanathan Genubhai, Mansukbhai Mavjibhai is justified? If not, what relief the concerned employees are entitled?”

2. The case of the 2nd party Union P.R.K.P. as per statement of claim (Ext.6) filed on 22.10.2002 by Shri B.K. Sharma, Union representative having with his verification is that a staff canteen of Diesel Shed, Sabarmati under Rajkot Division, Western Railway is running. The Diesel Shed is under control of senior Divisional Mechanical Engineer, Diesel Shed, Sabarmati, whose controlling authority is Divisional Railway Manager, Western Railway, Rajkot. The canteen is only for the staff of Diesel Shed, Sabarmati and is run and maintained by elected secretary from employees of Diesel Shed, Sabarmati. Further case is that this canteen is a Railway establishment and workers of canteen are appointed by Railway authority. The workers engaged to run canteen whose names mentioned in the schedule are denied right of temporary status (T.S.) from the date they completed 120 days service and have been deprived of all privileges of Railway employees and have suffered heavy financial loss. As per judgment of the Hon'ble Supreme Court canteen staff also should be treated as employees of Railway. Further stand is that before engaging those workers in canteen they were medically examined by Railway Doctor at Railway Hospital. On these grounds prayer is made to treat those canteen workers as Railway employee and they be awarded temporary status from the date they completed 120 days as canteen works and they be also granted consequential benefits with compensation and cost of this case.

3. Again the 2nd party (Union P.R.K.P.) under the verification of Shri R.S. Sisodia, President submitted amended statement of claim given Ext. No. 11 on 24.02.2010 while this case was pending before Industrial Tribunal, Ahmedabad and its copy received by Shri S.S. Shevde, Ex Railway Advocate. This S/C was filed to amend the statement of claim filed by the 2nd party on 27.08.2002/20.10.2002. But no order was passed regarding acceptance of new statement of claim by the Industrial Tribunal, Ahmedabad. Thereafter the record of this reference case received in C.G.I.T.-cum-Labour Court as per order of Ministry of Labour on 25.11.2010. The 2nd party did not also move before this tribunal for acceptance of new statement of claim by way of amendment and the case

proceeded as if newly submitted S/C (vide Ext.11) was allowed. However the 1st party submitted written statement (Ext.15) covering also the amended S/C vide Ext.11.

4. Further case has been made out by the 2nd party vide para 4 of Ext.11 that the canteen where the workman are working is being run for the last 20 years and the canteen is run by the officers of Railway Board and the total control and supervision over the canteen workers is of senior officers of Railway Board. For leave, permission is given by officers of Railway Board wage rise of canteen worker is also given by the officers of Railway Board. The wages of canteen workers are being paid by Railway Board. Further case made out that where there are more than 500 employees working at one place. Provision of canteen is must. So it is obligatory on part of employer to grant status of permanency to the concern workman. Further case is that Govt. of India/Ministry of Railway vide notification dated 04.02.2003 Railway has considered to grant the status of permanency to the canteen workers. Under the fresh/amended statement of claim (Ext.11) prayer is made for grant of benefits of permanency to concerned canteen workers.

5. As against this the case of the 1st party interlia as per written statement (Ext.15) is that the reference is not maintainable, the 2nd party Union/workman has no cause of action and the statement of claim of the 2nd party are not fully true and are not admitted. The case of the 1st party is that staff canteen of Diesel Shed, Sabarmati is run by the staff elected committee and there is no provision of staff or engagement of staff from Railway point of view. The so called contractor run the Railway canteen is baseless. The details of contractor should be furnished by the 2nd party. The contents of para-1 to 3 of claim statement need no remarks. The contents of para 4 to 7 are not true and are not admitted. The staff canteen is not Railway establishment run by the elected Secretary. The said staff canteen is run by the staff and is not Railway establishment. The staff canteen is not run by the Railway Board and no labour is engaged by Railway administration. The case of the 1st party is that canteen is not run by Railway Board rather run by the committee democratically elected by the staff. It is denied that the committee is elected by the officers. The work in the canteen is of causal nature for which no regular staff is required. The management and running of canteen is purely done by the aforesaid committee and has nothing to do with Railway Board or any officer as alleged. There is no relation of employer and employee between 1st party and the concerned canteen workers. The 1st party No. 1 D.R.M. W. Rly., Rajkot is not a necessary party. 1st party No. 2 Senior Divisional Mechanical Engineer, Western Railway Sabarmati is now not under Rajkot Division but is under Ahmedabad Division after formation of new Ahmedabad Division w.e.f. 01.04.2003. On these grounds, prayer is to dismiss the reference with costs.

6. In view of rival contention of the parties the following issues are taken for determination:-

ISSUES

- (i) Is the reference maintainable?
- (ii) Have the 2nd party valid cause of action to raise dispute?
- (iii) Is this case suffers for non joinder and misjoinder of the party?
- (iv) Is there exist relation of master and servant between the 1st party and the concerned canteen workers?
- (v) Whether the concerned workers named in the schedule of reference comes under the definition of "workman" defined under Section 2(s) of the I.D.Act?
- (vi) Whether the canteen in the campus of Diesel Shed, Sabarmati is run and managed by Railway Board or is it run by staff committee elected by the staff of Diesel Shed, Sabarmati?
- (vii) Whether the concerned canteen workers had worked as Railway recruited employee or had worked as privately kept helpers by staff committee of Diesel Shed, Sabarmati for running canteen having no control of Railway Board?
- (viii) Whether the concerned canteen workers are entitled to get temporary status and permanency as claimed? What directions if any are necessary?

FINDINGS

7. Issue Nos. (VI) & (VII) :- As per pleadings in subsequent statement of claim (Ext.11) it has been asserted by the 2nd party union (PRKP) that the canteen in the premises of Diesel Shed, Sabarmati is run and managed by Railway Board is under direct control and supervision of the officers of the Railway Board. The 1st party(W.Rly) have categorically denied it and stated that this canteen is privately managed by the Diesel Shed Staff Elected Committee. So the heavy onus lies upon the 2nd party/ Union/Canteen workers to prove that this canteen is run under control of Railway Board.

8. Out of the seven canteen workers involved whose names find place in the schedule of the terms of reference the affidavits of two of them namely Vishwanathan Ghenubhai (Ext.14) and Ishwar Kantilal (Ext.19) have been filed in lieu of examination in chief. Other five involved canteen workers- Mahendrabhai Vallbhai, Kantibhai Pithabhai, Prakashbhai Ashokbhai, Jevanbhai Jerambhai and Manshukhbhai Mavjibhai have not come to depose in the court nor their affidavit in lieu of examination in chief have been filed by 2nd party (Union). However, Vishwanathan (Ext.14) at para 1 of affidavit stated the names of their six canteen workers who were also working in the canteen with him and were working continuously

from January 1999 till 05.05.2001. There is no pleading in any of the S/C (Ext.6) or Ext.11 as to completing 240 days work in all calendar years but in absence of pleadings this witness vide para 2 stated that we all without any break completed 240 days work in every calendar year. Apparently such statement by way of affidavit is beyond the pleadings. In the S/C (Ext.6) it has been pleaded and prayed for T.S. (temporary status) since canteen workers were denied the right of T.S. from the date they completed 120 days service where as in the subsequent S/C (Ext.11) it was pleaded and prayed for regularisation and permanent status and the prayer of grant of T.S along with prayer for benefit of permanency as railway workman was introduced and also provision of section 25B of I.D. Act of continuous service and violation of section 25F of the I.D. Act. was taken. Vide para-8 he claims that Railway Board had hung notice on notice board for requirement of person in the canteen. He says that notice was hung in R.P.F. office Sabarmati and he had given application in R.P.F. office addressing to Diesel shed, Sabarmati. What was nexus between R.P.F. office and Diesel shed it has not come in evidence of witness. This witness appears to have stated irrelevant why R.P.F. office will entertain application in response to notice of so called Railway Board according to version of this witness. Vide para-10 he deposed that he and other seven persons were given appointment letter. His appointment letter is at his house, but alleged appointment letter has not been produced in this case. He admitted that he and others were working on daily wages of Rs. 56 vide para-11 he stated during cross-examination by 1st party lawyer that said canteen was run by Umias Shankar and four others. He says vide para-12 that he was working under Umias Shankar and he was taking work from him and that thereafter another Diesel shed employee began to run canteen. Vide para-13 he says that he and other canteen workers were removed from canteen works from 05.05.2001 by Shaileshbhai Patel and they submitted application addressed to senior Diesel Mechanical Engineer (D.M.E). He was shown Ext.17/1 by the 1st party lawyer and he admitted that he and other canteen workers had submitted this application marked pucca exhibits 18. He admitted that in the application they have written Shaileshbhai has removed them. He also admitted vide para 17 that Railway had not issued any interview letter to them. He stated, it is not true that he and other canteen workers were kept by elected staff committee on daily wages. Vide para 19 he does not possess any documents to show that Railway Dept. has given them temporary status. Vide para 20 he admitted that there is no factory in Sabarmati Diesel Shed rather there is workshop for Engine repairing and that no other works are performed. Vide para 22 he admitted that no P.F. was deducted from his wages. Though he claimed that wages was provided by Railway but no salary slip or other relevant papers submitted.

9. Ishwar Kantilal in his affidavit in chief (Ext.19) claimed that he is permanent employee of the Railway Dept. but admitted that he was getting Rs. 56 per day. He claimed that he was working on permanent sanctioned post. He claimed that he worked from January, 1999 till 05.05.2001 and completed 240 days in each year. He was not given any legal benefit in view of compliance of section 25F of I.D. Act. Alternative claim has also been made vide para 5 that he and other worker completed 120 days continuously works and so he is to be given temporary status and all benefits of permanent employee. During cross-examination by the lawyer of the 1st party he admits (para-8) he has no paper that he was appointed by D.R.M. for work in canteen. There was no written exam or interview. Vide para 8 he admits that co-worker Mahendra Baljibhai is suffering from mental illness after removal from work he has no occasion to meet him. He also admitted that Mahendrabhai Baljibhai for the last four year has went away from his home. He admitted that he has not named Kantibhai Pithbhai in his affidavit as concerned workman. Vide para 9 he admits that diesel shed, Sabarmati is established from before. He shows ignorance that Diesel shed was established in the year 1981 and canteen is started from 1985. He shows ignorance that he and other workers were engaged after termination of previous worker. Though he denied that this canteen is not run by Railway but did not produce relevant paper to connect that this canteen is not privately run by elected staff member committee rather run by Railway Dept./Rly Board. He admits vide para-10 that when he was working in the canteen Umiashankar was managing the canteen. He has no idea that in his affidavit it has been incorporated that he and others were removed and new canteen workers were kept. Vide para 11 he claimed that he was not getting leave and he made complaint to D.R.M. office in writing but copy of complaint is not available to him. Vide para.13 he was not getting leave, pass and I card. Vide para 14 he shows ignorance how he got letter of Umiashankar (Ext.20/1). He says that in Ext. 20/6 there is signature of Umiashankar on their attendance sheet. He admits that name of Dabhi Kanji Pandit, Praful Thakor and Dahiabhai are also in attendance sheets but they have not raised dispute in this reference case. There is also name of Shivalal in attendance register but he has not raised dispute in this case, name of Ashok Dave does not find place in the attendance register. He cannot say how this attendance register (Ext.20/6) was obtained by him/them. Vide para-16 he admits that the joint application (Ext.18) was addressed to M.E. Sabarmati containing the fact that staff secretary Shri Shailesh Patel have removed then without notice.

10. The second party through a list Ext.20 submit 6 documents. Ext-20/1 is Xerox copy of letter of Umiya Shankar dated 30.09.2000 advised to D.M.E. Sabarmati on the subject of providing relief to staff of diesel shed in

staff canteen. This letter is to the effect that in the training centre in diesel shed our staff used to provide tea as per order but due to shortage of canteen staff there is difficulty in arranging tea timely. Through this letter permission was intended for upkeeping of one Jivanbhai Jerambhai Desai in the canteen and if given order to keep him then direction for his medical examination may be given. Ext-20/4 is letter dated 18.07.2000 of Sr. D.M.E. Diesel Shed, Sabarmati addressed to medical officer Sabarmati for medical examination of non Rly employee Ishwarbhai Kantilal Dave working in Railway canteen. This letter goes to show that this non Rly employee has been also examined last year medical report valid up to 01.07.2000. This paper referring to medical officer Sabarmati is regarding periodical medical check-up of canteen worker for the purpose of having not suffering from contaminated disease like T.B. Asthma etc. for taking precaution of hygiene in tea preparation etc. This is not alike medical examination of new railway employee because at the time of recruitment of railway employee there is no need for periodical medical check-up. Generally in the food, tea making in big shop restaurant the canteen boys engaged for supposed to be neat and clean hygienically and free from suffering from contaminated disease. Ext.20/1 is medical examination report of vendor Ishwarbhai Kantilal Dave a non-Railway staff valid up to 24.07.2000. This itself speaks that this is not medical examination report of Railway employee because recruited Railway employees are not given medical fitness / check-up up to for a short specified period. Ext 20/3 is Xerox of prescription of medical Dept. of Railway regarding canteen boy (non Railway staff) dated 22.07.2000. The learned lawyer of the 1st party strongly argued that these papers do not connect that Ishwarbhai Dave was a Railway Board/ Dept. recruited staff, having relation of matter and servant. On the other hand it has been simply argued that had Ishwar not been railway recruited staff why he was referred for medical examination. Answer is simple since Ishwar was canteen boy engaged for making tea etc. for diesel shed staff so he being non-railway staff was being periodically examined by medical dispensary/ hospital Sabarmati for hygiene purpose and nothing else. Ext.20/5 series are Xerox copies of loose attendance sheets of canteen workers of diesel staff canteen from June 1999 to January 2001 showing engagement of canteen boys and their daily attendance and absenteeism and also showing whom of canteen boys left the job. In attendance sheet of August 1999 there were nine canteen workers out of whom three left the job also shown each day absence or presence of other canteen boys. These attendance sheets are though on printed form of attendance register usually should be used for attendance of Railway recruited employee but was used by Secretary of Staff Elected Committee in very unauthorised manner and use of such Railway stationary and printed form ought to have been dealt with firm hand by the Railway officer/ administration. From April 2000

and onward up to January 2001 there are signature of SSO(A/c) also that go to show that for 10 months attendance sheet was sent by the canteen secretary Umiyashankar with his initials for verification. Ext.20/6 are Xerox of wages payment forms in loose sheets from the period June 1999 to December 2000. Showing payment of wages daily rates to different canteen worker/boys including also to some of workers involved in this case under the signature of secretary diesel staff canteen, Diesel shed, Sabarmati.

11. On behalf of the 1st party original letter written by seven involved workers of this case addressed to Sr. D.M.E diesel shed Sabarmati has been filed with list Ext.17. This has been given pucca Ext.18 on admission of witness of 2nd party. This letter of concerned workman speak volumes that they were removed from private jobs in the canteen by new secretary Shri Shaileshbhai Patel without notice. This go to prove that the status of the concerned seven workman of this case were working in private canteen situated in the premises of Diesel Shed, Sabarmati and not working in Railway Board managed canteen. This does not clearly prove that staff canteen of Diesel shed Sabarmati is controlled by Railway Board but this much is proved that this canteen is being run under patronage Sr. D.M.E. though having no approval of Rly. Dept/ Railway Board.

12. It has been argued on behalf of lawyer of the 1st party that workman are worker cook etc. engaged by canteen management committee and are not Railway employees and there is no relation of master and servant between 1st party and 2nd party and the concerned workmen do not come under the definition of section 2(s) of I.D.Act. He further argued that Ext. 20 series documents do not go to establish employers –employee's relation. He further argued that on Ext.20/5 and 20/6 series there is no certificate issued by Railway dept. that the register muster roll and wage register contain how many pages and there are no seal and signature as to certificate of authorised officer.

13. On behalf of the 1st party witness Charansingh, Senior Engineer (Diesel) Diesel shed Sabarmati has filed affidavit examination in chief vide Ext.26 he deposed vide para 6 the canteen of diesel shed, Sabarmati is run by the staff elected committee and there is no provision of staff or engagement of staff from railway point of view. Vide para 7 & 8, this staff canteen in question is run by the staff and is not a railway establishment or not run by Railway Board and no labour is engaged by Railway Board. Vide para 10 management and running of canteen is purely done by staff elected committee and this committee is not elected by the railway officer. Vide para 11 no relationship of employer and employee between parties in proceedings and vide para 12 work in the canteen in question is of casual nature for which no regular staff is

required. Vide para 18 the canteen in question does not fall within criteria of Railway Board circular letter no E (WEL) 90 CNI-7(II) dated 18.05.1990. Vide para 27 of cross examination he shows ignorance that canteen workers working in diesel shed, Batwa has been regularised by railway. He stated by seeing ext. 20/5 that such loose attendance sheet is not used for regular Railway staff in rly department and that these are Xerox copy and not original. Vide para 28 he was not member of canteen committee. He proved Ext.27 which is a letter of D.R.M. Baroda. From perusal of Ext.27 it appears that employees of the subsidised statutory canteen are to be treated as railway servant's w.e.f. 01.04.1990 as per Railway boards letter dated 18.05.1990. It shows that four staff of the canteen of VTA Diesel Shed were treated as Railway servants. On behalf of the 2nd party on 16.11.2011. Xerox copy of railway boards letter no E (WEL) 90 CNL-7 (II) dated 18.05.1990 addressed to GMS all India Rlys and others on the subject implementation of Supreme Court Judgement regarding canteen Employees- non statutory (recognised) has been filed. That clearly reveals the criterion for treating the canteen staff as Railway employees as per S.C judgment in case of M.M. Khan & others vs. Union of India and others that employees of the subsidised (recognized) Non-statutory canteen should be treated as railway servants with effect from 01.04.1990. para-5 of this Railway boards circular clearly speaks that employer of a few non-recognized (nonsubsidised) non-statutory canteens which have sprung up without the approval of the Railway Board and in some cases with the approval and patronage of local authorities, for grant of status of Railway servants has been dismissed by the Hon'ble Supreme Court. Now coming to examine the case law M.M. R. Khan and others-petitioner vs. Union of India and others (A.I.R. 1990 S.C 937) as relied upon by the 2nd party even in written argument at para 3 how far it helps the 2nd party. As per Railway establishment manual, chap XXVII, para 2829, para 2832, para 2830- Railway employees in statutory and non-statutory recognised Railway canteen are entitled to be treated as railway employees. But not employees in non-statutory, non-recognized canteen. It has been held by their lordship vide para 30 that "non-statutory non-recognised canteen are not started with the approval of the Railway Board as required under paragraph 2831 of R.E. manual. Though they are started in the premises belonging to the Railways they are so started with the permission of local officers. They are not required to be managed either as per the provisions of the Railway establishment manual or the Administrative Instruction. There is no obligation on the Railway Administration to provide them with any facilities including the furniture, utilities, electricity and water. These canteens are further not entitled to nor are they given any subsidies or loans. They are run by private contractors and there is no continuity either of the contractors or the workers engaged

by them..... The canteens are run more or less on an ad hoc basis, the railway administration having no control on their working..... We are of the view that the workers engaged in these canteens are not entitled to claim status of railway servants." The 2nd party has failed to establish that the canteen run in the premises of diesel shed, Sabarmati is either statutory canteens or non-statutory recognised canteens in the Railway establishment. On the contrary Ext.18 and Exr. 20/1, 20/2, 20/3, 20/4, 20/5 and 20/6 go to show that canteen run in the premises of diesel shed Sabarmati is non-statutory non-recognised canteen and having no control of railway board. So the case law of A.I.R. 1990 S.C 937 does not go to help the 2nd party. The learned lawyer of the 1st party has argued that the case law (Supra) relied upon by the 2nd party has been overruled by subsequent case law reported in A.I.R. 1996 S.C. 289. The case law of A.I.R. 1196 S.C. 289 (Union of India & others (railway board) appellant vs. J.V. Subhaiat & others) was Railway Establishment code para 108- railway cooperative store/societies officers, employees. Their status, promotions scale of pay increments cannot be treated at par with Railway servants. Their services are not regulated by Railway Administration. They are governed by bye-laws of societies subject to control and sanction by Registrar under state Act. The next case law of Hindalco Industries Ltd. Vs. Association of Engineering workers (2008 LLR 509) S.C. (D.B) is also not applicable in the instant case in true sense since the judgment of A.I.R. 1990 S.C. 937 is by three judges where in canteen employees working in non-statutory- non recognised canteen cannot be treated as Railway servant, cannot be changed by the judgment of Division Bench 2008 LLR S.C. 509. Facts of the case law 2008 LLR 509 is regarding absorption of workers working in statutory canteen through contractor and regarding application of provision of factories Act 1948 and fact was that contractors were changed but workers remained the same. Whereas in the instant case the concerned workers had hardly worked for two years from June 1999, August 1999 or January 2001 to 05.05.2001 and before them other canteen boys workers were engaged and removed by secretary/ president of staff elected committee for the non-statutory non-recognised canteen of Diesel shed Sabarmati and as per own admission of concerned seven workers as per Ext. 18 they were removed from works private service of canteen. So, neither the case laws reported in A.I.R. 1990 SC 937 nor the case law reported in 2008 LLR 509 (S.C) come to rescue of the canteen workers involved in the instant case. In other words these case laws as relied upon by the 2nd party are not applicable in the facts and circumstances of the instant case. More so, Ext. M 29/1 the Xerox copy of letter of Sr. D.M.E (diesel) Diesel Shed Sabarmati addressed to A.L.C (Central) Ahmedabad on the subject of management of staff canteen by elected committee consists of officers, senior supervisor, two

representative of recognised union and one woman representative does not change the status of said canteen from non-statutory canteen to non-statutory recognised canteen as per judgement of Hon'ble Supreme Court in A.I.R. 1990 S.C. 937 (Supra) followed by letter dated 18.05.1990 of Railway Board.

14. Thus, as per discussion and consideration in the foregoing and oral evidence adduced by the parties together with the case laws also discussed above, I am of the considered view and therefore find and hold that the canteen in question running in the premises of Diesel Shed, Sabarmati is not run and controlled by Railway Board rather the same is run by staff committee elected by the staff of diesel shed, Sabarmati. I further find and hold that the concerned seven canteen workers have never worked as railway employee or they never be treated as railway employee rather as per own admission of them as per Ext.18 they were working as privately kept helpers in the canteen by president/ secretary of committee having no control of Railway Board as per letter dated 18.05.1990. So these two issues are answered accordingly and are decided against the 2nd party.

15. **ISSUE NO. (iv) & (v):-** In view of the findings to Issue No. (vi) & (vii) in the foregoing, I further find and hold that there exist no relation of master and servants between the 1st party and the concerned canteen workers and that the 2nd party (concerned workers) do not come under definition of workman in true sense under section 2(s) of the I.D. Act, 1947. These issues are also decided against the 2nd party.

16. **ISSUE NO. (iii) :-** As per contention of the 1st party at para 7 of w.s. (ext.15) the 1st party no. 1 D.R.M. W.rly, Rajkot is not necessary party since new Ahmedabad division came into existence w.e.f. 01.04.2003 and the 1st party No. Sr. Divisional mechanical Engineer, W.Rly Sabarmati is now not under Rajkot Division rather is under Ahmedabad Division. Though the 2nd party has not impleaded D.R.M. Ahmedabad as necessary party in this case. But ipso facto this reference case would not suffer from non-joinder of necessary party because when the dispute was referred for adjudication Diesel Shed, Sabarmati was under jurisdiction of D.R.M., Rajkot.

17. **ISSUE NO. (i) & (ii):-** As per findings given in foregoing, I am of the considered view and therefore find and hold that this reference is not maintainable in the present context, but the 2nd party, the concerned workers of the case have valid cause of action that they were removed illegally from the canteen works by the elected secretary of the staff committee of Diesel Shed, Sabarmati.

18. **ISSUE NO. (viii):-** This could not have been established by the 2nd party that the canteen in Diesel Shed, Sabarmati is run by the approval and concurrence

of Railway Board. The 2nd party has not produced relevant documents that either D.R.M. Rajkot or D.R.M., Ahmedabad has had issued any direction to treat canteen workers of Diesel Shed, Sabarmati as railway employee in view of Railway Board's letter dated 18.05.1990. So the canteen workers involved in this case have not been treated as railway employee and so they had not been given T.S. (temporary status) by D.R.M. Western Railway, Rajkot. However, out of the seven canteen workers involved in this case. Only two-Shri Vishwanathan Ganubhai and Shri Ishwar Kantilal Dave are fighting out this case by deposing in support of their claim that they should be treated as Railway employee. Whereas out of remaining five one Shri Mahendrabhai Vallbhai has left the place for the last several years and is suffering from mental disease as admitted by Ishwarbhai Kantilal in cross examination and other four have not appeared personally in this case to show their any eagerness due to their removal from canteen works by the secretary elected by staff committee of Diesel Shed, Sabarmati on 05.05.2001. More so, out of them one was engaged only in January 2001. So those five canteen workers have very weak case. However, Vishwanathan Ganubhai and Ishwar Kantilal Dave have better case for their reengagement as canteen workers in Diesel Shed, Sabarmati by the elected secretary/president of the staff elected committee who used to run the canteen in Diesel Shed, Sabarmati since 1985. So a direction is given to the 1st party No. 2 Sr. Divisional Mechanical Engineer, Western Railway, Diesel Shed, Sabarmati to direct the elected Secretary of the staff committee of Diesel Shed, Sabarmati to keep them as canteen workers since they had been illegally removed from canteen works. This much relief the two workers Vishwanathan and Ishwar Kantilal Dave are entitled in this case with continuity of service as canteen helper but without any back wages.

The reference is allowed in part so far as claim of two workers Vishwanathan and Ishwar Kantilal are concerned. No order as to any cost.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2408.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 16/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-41011/23/2010-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 16/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 26/08/2014.

[No. L-41011/23/2010-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad, Dated 1st August, 2014

Reference: (CGITA) No.16/2011

Adjudication order No. L-41011/23/2010-IR(B-I)

The Divisional Railway Manager,
Western Railway,
Near Chamunda Bridge,
Asarwa,
Ahmedabad (Gujarat)

..... (1st party)

And

Their workman

Through the President,
Paschim Railway Karmachari Parishad,
28/3, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati,

Ahmedabad (Gujarat)

.....(2nd party)

For the First Party : Shri Navin S. Vaghela, Advocate

For the Second Party : Shri Raghuvir Singh Sisodia,
President (P.R.K.P.)

AWARD

The Government of India/Ministry of Labour, New Delhi vide its order No. L-41011/23/2010- IR (B-I) dated 09.03.2011, referred the dispute for adjudication to this Tribunal in respect of the matters specified in the Schedule:

SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Ahmedabad in terminating the services of Shri Jayendra D. Vaghela, Ex Bungalow Peon w.e.f. 05.04.2006 is legal and justified? To what relief the workman is entitled?”

2. The case of the 2nd party as per statement of claim (Ext.3) is that the services of Ex Bunglow peon Shri Jayendra D. Vaghela, the member of (Union P.R.K.P.) was illegally and arbitrarily terminated on 05.04.2006. The fact of the case in narrow compass is that Jayendra D. Vaghela was appointed as Bunglow peon in the month of January, 2005 and he worked continuously and uninterruptedly up to 03.04.2006. On 03.04.2006 he asked for two days leave i.e. for 03.04.2006 and 04.04.2006 due to illness of his wife and for this requested to D.R.M. and verbally the D.R.M. allowed him to go on leave for two days. Then after taking prior permission of superior employer Divisional Railway Manager, he had gone for leave for two days i.e. 03.04.2006 and 04.06.2006. After leave he (workman Jayendra) resumed his duty on 05.04.2006, but his officer Divisional Railway Manager terminated his service without giving any written order or any instruction and orally workman Jayendra was told that from today you have not to come on duty and you are hereby terminated from services. Further case of 2nd party (union) is that the so called inquiry was initiated in absence of workman Jayendra. Neither show show cause notice nor any notice informing to workman that inquiry proceedings is to be held. So actually no inquiry has ever been held against the workman Jayendra D. Vaghela. Even though so called inquiry proceeding has been recorded by the inquiry officer and it was found that he (workman) has committed misconduct of unauthorised absence from duty for two days in such view of the matter punishment order of termination from the services is very much disproportionate to the gravity of misconduct and the 1st party employer has arbitrarily and abruptly passed termination order of workman w.e.f. 05.04.2006. Such action on part of the 1st arty employer is illegal, perverse and contrary to the principles of natural justice and also against the violation of mandatory provisions of section 25F of Industrial Disputes Act, 1947. After termination of the workman Jayendra, the D.R.M. appointed another fresh Bunglow peon in place of workman Jayendra which is also violation of section 25G and 25H of Industrial Disputes Act, 1947. More so, the concerned workman Jayendra D. Vaghela had completed one year continuous service with the 1st party employer and so he was entitled for temporary status and the benefit of temporary servant at the time of termination the services of Jayendra. The concerned workman Jayendra was not given reasonable opportunity of hearing in the so called inquiry. Further case is that Jayendra had completed 240 days continuous service before last twelve preceding month and he was not given notice or notice pay and so termination of his services is against the mandatory provisions of section 25F of the Industrial Disputes Act, 1947 and so the workman is entitled for reinstatement with full back wages and continuity of service. The workman is still ready and willing to resume his duty at the place of residence of D.R.M.

3. As against this the case of the 1st party interlia as per written statement (Ext.5) is that the workman Jayendra Vaghela was not maintaining his duty properly and he had not given any leave application to his superior officer on 03.06.2006. The D.R.M. having full right for termination of duty for improper service. The D.R.M. on many occasions had given verbal notices to Jayendra Vaghela for his improper service but Jayendra was not performing his duty properly. Further case is that the 1st party verbally had given information to Jayendra to come in inquiry but he did not come then 1st party officer passed order in so called inquiry for termination of services of Jayendra Vaghela. The 1st party has passed proper order of termination. The 1st party has followed departmental inquiry against Jayendra but he intentionally not joined departmental inquiry. In reply to para-5 and 6 of the S/c it is stated that Jayendra if continuously worked 120 days service with employer and even he is entitled for temporary status (T.S) and even if he completed one year of continuous service with the 1st party employer and even he continuously and uninterruptedly worked for a period of one and half year with the 1st party employer, but the said workman Jayendra was not maintaining his duty faithfully and in proper way and he misbehaved with his superior authority in such way so main authority having fully rights for termination of the services of workman Jayendra. The 1st party employer followed all legal procedure against workman, but workman not followed the legal procedure adopted by the employer. In reply to para-7 of the S/c it is stated that during service period the workman (2nd party) was not performing proper service and so for that purpose the 1st party has not given alternative employment to him (workman) and so the 1st party has not violated either section 25F or 25G or 25H of the Industrial Disputes Act, 1947. On these scores prayer is to dismiss the reference since the 2nd party is not entitled to get any relief.

4. The following issues are taken for determination:

ISSUES

- (i) Is the reference maintainable?
- (ii) Whether the 2nd party (union) has valid cause of action to raise dispute?
- (iii) Whether proper and valid domestic inquiry was conducted for the alleged misconduct of two days absenteeism?
- (iv) Whether the punishment of termination awarded to the workman Jayendra Vaghela is proper or is disproportionate to the gravity of misconduct?
- (v) Whether the workman Jayendra D. Vaghela is entitled for reinstatement with continuity of service and back wages?
- (vi) What orders and directions are to be passed?

FINDINGS

5. ISSUE NO. (iii) & (iv):- on behalf of the 1st party entire domestic inquiry file has not been submitted. Only the copy of statement of Jayendra Vaghela (R/1) has been attached with the affidavit of the 1st party witness namely Om Prakash Upadhyay. The entire onus is upon the 1st party to prove that a fair, proper and valid domestic inquiry was held against the delinquent Jayendra observing the principles of natural justice. Entire statement of Jayendra recorded on 31.08.2006 is in question and Answer form who asked questions to the delinquent it is not proved. It is not established whether presenting officer was duly appointed by the management. It is also not proved whether inquiry officer was duly appointed. It is also not proved whether delinquent Jayendra was allowed to keep his defence representative in the so called inquiry. It is also not established as to how many sitting of inquiry committee was held. The 1st party has not produced the charge sheet issued to the delinquent. The S.F.V. has not been produced by the 1st party. The inquiry proceedings and the inquiry report have also not been produced by the 1st party. Before start of inquiry whether or not any show cause notice was issued to the delinquent it has not been shown on behalf of the 1st party management.

6. The 1st party witness has admitted in his oral evidence (Ext.8) during cross examination at para-4 that Jayendra was appointed as Bunglow Peon at the Bunglow of D.R.M., A.D.I. by order of general Manager, Mumbai on 23.09.2005 and he had been given T.S. (Temporary Status) after working continuously for 120 days. The duty of Jayendra was to do work at Bunglow and house works at D.R.M., Kothi. Vide para-5 he also admits that the works of Jayendra was being supervised by Mrs D.R.M. at Kothi.

7. The delinquent workman Jayendra in his affidavit in lieu of examination in chief (Ext.6) has stated at para-2 that he was given T.S. after 120 days and subsequently he was regularised vide para-3 02.04.2006 was Sunday holiday. On 03.04.2006 his wife had suddenly fell ill and she was taken to rail Hospital. He at 15:00 hour went to Mrs. D.R.M. at Bunglow for grant of two day C.L. On 03.04.2006 and 04.04.2006 and on 05.04.2006 he went to Bunglow for duty in the morning but he was refused to be taken on duty on 05.04.2006. In the statement of (question & Ans. series dated 31.08.2006 (R/1) it has come that duty hours of Jayendra starts from 7:00 a.m. and he continuously worked from 3.09.2005 to 02.04.2006 without taking any leave and that after two days leave 03.04.2006 and 04.04.2006 he came for duty on 05.04.2006 at 7:30 a.m. but he was refused to be taken on duty. He had neither been suspended for unauthorised absent on 03.04.2006 and 04.04.2006 nor any show cause notice had been issued to him and when his service had been regularised after grant of T.S. then how he can be prevented from doing

Bunglow duty from 05.04.2006. If he was half an hour late on 05.04.2006 then as per admission of the 1st party witness (Ext.8) at para-5 during cross examination if any railway staff came for duty late on three occasion then his one C.L. is deducted. In that view of the matter when delinquent Jayendra went on leave on 03.04.2006 and 04.04.2006 after taking verbal permission of Mrs D.R.M. at Bunglow and when he reported for duty on 05.04.2006 only half an hour late at 7:30 a.m. then a regular railway workman who had not been suspended cannot be prevented from discharge of his duty as Bunglow peon for which he had been duly appointed vide order/memorandum dated 23.09.2005 Ext. 11/1. On behalf of the 2nd party Xerox copy of attendance sheet. Ext. 11/3 of the month of April 2006 has been filed that go to show name of Jayendra at Sl. No. 11 and on 03.04.2006 and 04.04.2006 he was marked on 'L' (leave) but it was cut and show 'A' (absent) This fact has also been admitted by the 1st party's witness at para-9 of his evidence during cross examination that Jayendra had been shown on leave on 03.04.2006 and 04.04.2006 but subsequently he was marked 'absent'.

8. Ext. 11/2 is Xerox copy of punishment order dated 26.06.2007 passed by Sr. Divisional Material Manager A.D.I., has been submitted by the 2nd party Union. From perusal of speaking order it reveals that departmental action was initiated on 05.04.2006 for the following charge "unauthorised absence from duty". But there is no document on behalf of the 1st party to connect that departmental action was actually initiated on 05.04.2006. For the sake of argument it can be said that if actually departmental action was initiated on 05.04.2006 there is absence of suspension order the so called chargesheeted person can be presumed to be on duty during whole of the inquiry proceeding but in the case of Jayendra it was not done so rather he was ousted from duty on 05.04.2006 when he had reported for duty at Bunglow at 7:30 a.m. Whereas he was removed from service with immediate effect i.e. from date of passing of punishment order dated 26.06.2007. In the speaking order there is mention of appointment of inquiry officer Shri D.P. Patthak (A.O. /L A.D.I.) but there is no inquiry report. Speaking order itself reveals about lacuna that no presenting officer was appointed. The so called inquiry report dated 09.02.2007 has not been submitted by the 1st party in this case. The copy of so called representation dated 10.03.2007 of Jayendra has also not been submitted by the 1st party. More so, the speaking order does not deal the sick certificates produced by Jayendra for 03.04.2006 and 04.04.2006 as it reveals from his statement (R-1) in his cross examination by D.C. where he stated in answer to question that he along with his application had gone to submit sick/fit certificate at D.R.M.'s Kothi but it was not taken that sick/fit certificate is produced today (31.08.2006) to be taken on record. The speaking order of D.A. does not appear to have dealt with the delinquent's sick/fit

certificate with application. That goes to show that the enquiry officer failed to consider those papers of delinquent and likewise the disciplinary authority D.M.M. A.D.I. also failed to take into account as to cause of absenteeism on 03.04.2006 and 04.04.2006 of delinquent Jayendra. Even it is presumed that Jayendra committed misconduct of two days absenteeism – 03.04.2006 and 04.04.2006 it was a minor misconduct for which punishment of warning or censure or even held up of increment could have been passed rather than to award extreme punishment of removal from service with immediate effect that has caused economic death of delinquent Jayendra. It is quite clear that economic death of Jayendra was caused not only by awarding punishment of removal with effect from 26.06.2007 rather his economic death was caused from 05.04.2006 when he reported for duty virtually in time at 7:30 a.m. for the only fault that he had not applied for leave on 03.04.2006 and 04.04.2006.

9. So on consideration of the materials discussed above, I am of the considered view and therefore find and hold that no proper and valid domestic inquiry was conducted against the 2nd party (delinquent workman Jayendra D. Vaghela) for the alleged misconduct of two days absenteeism. I further find and hold that the punishment of termination with immediate effect dated 26.06.2007 awarded to the delinquent Jayendra is not at all proper rather is totally disproportionate to the gravity of misconduct and so, invoking the provision of section 11-A of the Industrial Disputes Act, 1947. Punishment order dated 26.06.2007 passed by the Disciplinary Authority is fit to be set aside. So Issue No. (iii) and (iv) are decided against the 1st party.

10. **ISSUE NO. (v):** In view of the findings to issue No. (iii) & (iv) in the foregoing paras, I further find and hold that the delinquent workman Jayendra D. Vaghela is entitled for reinstatement as Bunglow peon with continuity of service and consequential benefits with 75% back wages.

11. **ISSUE NO. (i) & (ii):** In view of the findings to Issue No. (iii), (iv), & (v) in the foregoing, the reference is maintainable and the 2nd party (Union P.R.K.P) has valid cause of action to raise industrial against the management of the 1st party.

12. **ISSUE NO. (vi):** The order of punishment passed by the Disciplinary Authority dated 26.06.2007 as to removal of Jayendra from services with immediate is set aside invoking the jurisdiction by this tribunal under section 11-A of the Industrial Disputes Act, 1947. The 1st party is directed to reinstate Shri Jayendra D. Vaghela within thirty days of receipt of copy of award failing which the back wages (75%) will carry interest @ 9% P.A.

The reference is accordingly allowed. However, no order of cost.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ सौराष्ट्र प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 84/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/261/1997-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 84/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of Saurashtra and their workmen, received by the Central Government on 26/08/2014.

[No. L-12012/261/1997-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD**

Present :

Binay Kumar Sinha,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad, Dated 10th July, 2014

Reference: (CGITA) No-84/2004

Reference: (I.T.C.) No-39/1998(old)

Adjudication Order No. L- 12012/261/97-IR(B-I)

1. Assistant Personnel Manager
State Bank of Saurashtra
(Now State Bank of India)
Head office, New Adm. Building,
Neelam Buag Chowk,
Bhavnagar -364001
2. The Manager
State Bank of Saurashtra
(Now State Bank of India)
Naroda Road Branch,
Naroda, Ahmedabad

.....First Party

AND

Their Workman

Smt. Arunaben Chimanbhai Dalwadi,
Dharamnath Society,
Opp. Satyam School,
Adiswarnagar,
Naroda, Ahmedabad

.....Second Party

For the First Party : Ms. Meenaben Shah, Advocate
(Gandhi Associates)

For the Second Party : None

AWARD

The Government of India/Ministry of labour, New Delhi vide its order No. L- 12012/261/97-IR (B-I) dated 05.06.1998, referred the dispute for adjudication to this Tribunal, Ahmedabad in respect of the matters specified in the Schedule:

SCHEDULE

“Whether the action of state Bank of Saurashtra, Naroda Road Branch, Ahmedabad in terminating, the services of Smt. Arunaben Chimanbhai Dalwadi w.e.f. 27.02.1994 is justified? If not, what relief the workman is entitled to?”

2. The case of the 2nd party workman as per statement of claim (Ext.3) is that she was appointed as a part time sweeper at Naroda Road Branch of Bank on 17.04.1993 by the 1st party No. 2 and she worked faithfully and there was no complaint against her. She on several time requested to 1st party No. 2 to pay wage and other benefits at par with bank's regular employee. Thereafter suddenly 1st party No. 2 orally terminated her on 27.04.1994 from the services. No notice or notice pay and retrenchment compensation was paid. In her place a new person was appointed by the 1st party No. 1 and 2. The 1st party has violated the provisions of section 25F, 25 G and 25H of the I.D. Act. She after termination tried for job elsewhere but she could not get and she remained unemployed. On these grounds, prayer is made for her reinstatement with continuity of services and full back wages and also to grant relief to which she is found entitled and also for the cost of litigation.

3. As against this the case of the 1st party *inter alia* as per written statement (Ext.5) is that contents of the statement of claim are not true and are not admitted by the 1st party (Bank), the reference is not maintainable, the 2nd party (workman) has no cause of action. The case of the 1st party (Bank) is that the 2nd party had worked as a temporary part time sweeper from 17.04.1993 to 10.02.1994 and had worked only for 102 days during the aforesaid period. Since the permanent sweeper-cum-peon had attended the Bank, it was not necessary for bank to retain the 2nd party and so she was not provided with work after 10.02.1994. The Bank had not terminated her services for any misconduct and so question of issuing charge sheet and holding departmental inquiry does not arise at all. The Bank has not appointed new employee in place of 2nd party on temporary basis on lump sum amount and so, the averment of para-4 of S/c are denied. The 1st party has denied para—2 to 6 and with regard to para-1

it is stated that 2nd party was engaged as a temporary sweeper on daily wages and she was given work as and when permanent sweeper-cum-peon was not available. She was working from 9 a.m. to 10:30 a.m. For which she was paid by vouchers. On these scores, prayer is to reject, the reference, since the 2nd party is not entitled to any relief.

4. In view of the pleadings the following issues are taken for determination:

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the 2nd party valid cause of action?
- (iii) Whether the 2nd party completed 240 days work in calendar year preceding her alleged oral termination w.e.f. 27.02.1994?
- (iv) Whether the action of the management of the 1st party is justified?
- (v) Whether the 2nd party is entitled to any relief in this case?

FINDINGS

5. **ISSUE NO. (iii) -** The 1st party submitted 8 Xerox copies of vouchers with list Ext.6 and its copy received on behalf of the 1st party. Those are for payment of daily rated wages to the 2nd party workman who had been deployed for part time sweeping work at Naroda Road branch of Bank. The 2nd party Smt. Arunaben Chimanbhai Dalwadi deposed in oral evidence vide Ext.11 stating that she was engaged for part-time sweeping at Naroda Branch from 17.04.1993 on Rs. 50/- as daily rated wages and that she was terminated/discontinued from 27.02.1994 and that action of the 1st party in terminating her is illegal violating the provision of law. Her cross examination at length was done by the 1st party's lawyer and she (the 2nd party Arunaben) admitted that she was being paid through vouchers and she used to put her signature on back of vouchers. She further admitted that she had not submitted any written application for job of sweeper. However, she stated that this fact is not true that during the period 17.04.1993 to 27.02.1994 she worked only for 142 days.

6. On behalf of the 1st party original 8 vouchers with list (Ext.12) was filed on 29.03.2001 i.e. on the date of cross-examination of 2nd party and on admission of 2nd party during cross-examination those eight original vouchers which are dated 27.04.1993, 18.05.1993, 05.06.1993, 25.06.1993, 09.07.1993, 27.07.1993, 10.02.1994 and 10.02.1994 were marked puce exhibits No. 13 to 20 respectively. These vouchers go to prove the works done by Arunaben from 17.04.1993 to 27.04.1993 for 9 days and charges of sweeping daily @ Rs. 25/- (total Rs. 225/-) sweeping charges from 28.04.1993 to 18.05.1993-21 days

and 2/5, 9/5, 16/5 Sunday and 30.04.1993 leave and payment of Rs. 425/- was made to Arunaben. She was paid Rs. 325 @ Rs. 25 per day sweeping works from 19.05.1993 to 05.06.1993 (23/5, 30/5, Sunday, 2/6 Id holding i.e. 18-3=15 days, she was paid Rs. 400 @ Rs. 25/- per day sweeping charge for 16 days 07.06.1993 to 12.06.1993, 14.06.1993 to 19.06.1993 and 22.06.1993 to 25.06.1993 vide Ext.16. Vide Ext.17 she was paid Rs. 100/- for 4 days work 10, 12, 13, 14.07.1993. Vide Ext. 18 she was paid Rs. 100/- for four days work 10,12,13 and 14.07.1993. Vide Ext.19 she was paid Rs. 550/- for 22 days of sweeping works @ Rs. 25/- from 15.01.1994, 17.01.1994 to 22.01.1994, 24.01.1994 to 25.01.1994, 27.01.1994 to 29.01.1994 to 29.01.1994, 31.01.1994 to 05.02.1994 and 07.07.1994 to 10.02.1994. She signed on the back of 20 paisa revenue stamp. Vide Ext.20 dated she was paid misc. charge of Rs. 375/- for sweeping and other miscellaneous works from 24.12.1993, 27.12.1993 to 31.12.1993, 01.01.1994, 03.01.1994 to 05.01.1994, 17.01.1994 to 18.01.1994 for 15 days @ Rs. 25/- on calculating the days of works her entire works as part-time sweeper in Naroda branch of Bank comes to 106 days and she had accepted the charges @ Rs. 25/- per day on the back of all eight vouchers.

7. Thus the 1st party (Bank) has successfully discharged the onus shifted on it that she (Arunaben) worked much less than 240 days work from 17.04.1994 to 10.02.1994. The 1st party has proved that she was engaged up to 10.02.1994 only since regular sweeper of Bank had joined and so there was no need to keep her for any further days. On the other hand the claim of the 2nd party Arunaben is also discarded through Ext. 13 to 20 the eight vouchers that she was orally terminated on 27.02.1994. Because there was no question of her oral termination on 27.02.1994 she worked as casual worker till 10.02.1994 and she was paid thereafter there no work for her due to joining of regular sweeper of Bank.

8. Thus on consideration of the evidence discussed above, I find and hold that the 2nd party Arunaben Chimanbhai Dalwadi has not completed 240 days' work as part-time sweeper in Naroda branch of Bank. During the period of works as alleged from 17.04.1993 to 27.02.1994. So this issue is answered in negative and decided against the 2nd party.

9. ISSUE NO. (iv):- Since the 2nd party did not complete 240 days work at Naroda branch of Bank so, it was not incumbent upon the 1st party (Bank) to give retrenchment notice or one month notice pay and retrenchment compensation to the 2nd party and so there is no question of violation of the provision of section 25F, 25G, 25H of the I.D. Act, 1947. The 1st party Bank had not engaged a new person as sweeper on remuneration rather Bank's regular sweeper had joined and so there was no need of work of Arunaben to which she was doing part-time work in

absence of regular sweeper. The 1st party's lawyer Ms. Meenaben Shah has cited two case laws:

- (1) 2010-II-LLJ SC 293 (State of Karnataka & other vs. Ganpati Chaya and others) where in it has been held appointment a daily wagers on temporary basis claim for regularisation not maintainable.
- (2) 2011-II-LLJ SC 295 (Union of India & others vs. Vartak Labour Union) where in it has been held temporary or casual workers would not get any right for absorption, however long be their service if the original appointment was not by due process of selection under relevant rules.

10. Thus as per consideration above, and also in view of findings to Issue no. (iii) In the forgoing, I am of the considered view and therefore, find and hold that the action of the management of the 1st party is justified in terminating/ discontinuing the 2nd party for works. This issue is answered in affirmative.

11. ISSUE NO. (I), (ii), & (v):- In view of the findings to issue No. (iii) & (iv) in the foregoing, I find and hold that the reference is not maintainable and the 2nd party has no cause of action and so the 2nd party Arunaben Chimanbhai Dalwadi is not entitled to any relief in this case.

The reference is accordingly dismissed. No order of any cost.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2410.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 983/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-41012/152/91-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2410.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. NO. 983/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 26/08/2014.

[No. L-41012/152/91-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD****Present :**

Binay Kumar Sinha,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad. Dated : 19th May, 2014

Reference : (CGITA) No-983/2004

Reference: (I.T.C) No-60/1995(old)

Chief Engineer (Construction)
Western Railway, Station Building,
Kalupur,
Ahmedabad (Gujarat) ... First Party

AND**Their Workman**

Shri Devendra Chandulala Vyas
Through Western Railway Kamdar Sangh,
T.B. I-17, Gurnagar,
Gandhidham (Kutch) ... Second Party

For the First Party : Shri H.B. Shah, Advocate

For the Second Party : Shri O.P. Vashishtha,
General Secretary,
Western Railway Kamdar Sangh,
Gandhidham

AWARD

The Government of India/Ministry of Labour, New Delhi vide its Order No. L-41012/152/91/IR(B-I) dated 16.10.1995, referred the dispute for adjudication to the Industrial Tribunal, Rajkot in respect of the matters specified in the Schedule:

SCHEDULE

“Whether the action of the management of Chief Engineer(C) W.Rly, Ahmedabad in termination the services of Shri Devendra Chandulal Vyas, casual labour w.e.f.24.05.1978 and in not giving the benefit under section 25H of I.D.Act, 1947 is legal and justified? If not to what relief the workman is entitled to?”

2. The case of the workman (2nd party) as per statement of claim(Ext.3) dated 19.12.1995 is that Devendra Chandulal was appointed as a casual labour under permanent way Inspector(Construction) Western Railway, Gandhidham Shri Gopal Krishna on 09.02.77 by the Executive Engineer(Construction) II Western Railway, Ahmedabad. He worked for more than one year in the Railway service. His services were terminated w.e.f. 24.05.78 without following the provisions of the I.D.Act under section 25F. No notice had been given to workman.

No notice pay equal to one month's wages and retrenchment compensation was given to him. No seniority list of the workman was notified before his retrenchment violating the I.D. Rules No.77. No notice was on form “P” to the authority concerned. Whereas listed persons were recruited after this workman and one junior to him are retained in the service. ——— (a) Sattar Jamal (b) Ullash (c) Gotishwar Chocher (d) Chetan Langraj (e) Hadoo Kartik (f) Navghan Shikar (g) Babooli Bhimsen under the provision of section 25G, the person last recruited was to be retrenched first but this principle was not followed in this case and the management has violated section 25G and 25H of I.D.Act and the I.R. Rules 76,77,78 have also been violated. The workman was making inquiry from the management for his re-engagement and he was advised verbally that he will be given the job whenever the new work will come and thus workman kept hopes for longer time. Further case is that as per order of the Hon'ble Supreme Court dated 23.02.1987 in W.P. No. 332 the seniority list of all the project casual labour was to be prepared but no such list was ever prepared to include the name of this workman. Whereas the workman made a representation to the management vide his application dated 24.02.87, giving his full details of service for re-engagement but there is no action from the side of the management. The management was prejudiced with the trade union activities of workman so he was retrenched from the service is legally to teach him a lesson. There after being tired from all sources, the workman raised dispute through the union. On these grounds prayer is to declare the action of management in retrenching the workman as illegal and to direct the management to take the workman on duty with back effect and with back wages and to grant any other relief to which the workman is found entitled.

3. As against this the case of the 1st party (management of W.Rly.) inter alia as per written statement (Ext.8) is that the reference is not maintained since dispute raised after 17 years, the workman has no causes of action and the reference is barred by delay and laches. The contention of the 1st party is that workman was engaged on 09.02.1977 as a daily rated casual labour under P.W.I. (Construction) Gandhidham and his services was terminated w.e.f 24.05.1978 after following the provision of I.D.Act and Rules. The workman had accepted his retrenchment/ termination without any dispute. Thereafter a long lapse of 17 years dispute has been raised before A.L.C. (C) Ahmedabad without giving justifiable reasons. The workman remained in gainful employment since after termination on 24.05.1978 and so he has no need of job in Railway. The services of the workman are terminated before 01.01.1981 and so judgment of Hon'ble Supreme Court in the Indrapal Yadav case is not applicable. Further case is that as per policy framed by Railway Board vide letter dated 02.03.1987 instruction has been given that the

labourers whose services were terminated before 01.01.1981 should send their representations to the concerned Divisional Railway Manager before 31.03.1987 for including the name in the live register maintained by the Divisional Manager. So the concerned workman should have to submit representation to D.R.M. Ajmer before 31.03.1987. But the workman failed to submit the same to D.R.M. Ajmer before 31.03.1987. But instead of making representation to D.R.M. Ajmer before 31.03.1987 the workman approached Assistant Labour Commissioner (Central) Adipur on 13.04.1992 i.e. after a lapse of long time of 17 years after retrenchment. The workman has named some labour in claim statement but they have not been made necessary parties in the reference order. The 1st party management did not receive any notice in the year 1987 from the workman side. The 1st party have not violated the provision section 25F, 25G, 25H and that the judgment of Supreme Court cited by the workman in para 3 of statement of claim is not applicable to the facts of this case. The workman letter dated 24.02.1987 has not been received in the office of the 1st party. On these scores prayer is to dismiss the reference with cost.

4. In view of the pleading of the parties the following issues are taken for determination :-

ISSUES

- (i) Is the reference maintainable?
- (ii) Whether the workman has valid cause of action to raise dispute?
- (iii) Whether the reference is barred by delay and laches?
- (iv) Whether the action of the management of Chief Engineer(C) Western Railway, Ahmedabad in not giving the benefit under section 25H of I.D.Act even after submitting the application dated 24.02.1987 for inclusion of his name in the live register of retrenched project causal labourer Shri Devendra C. Vyas is legal and justified?
- (v) What relief the workman Shri Devendra Chandulal Vyas is entitled to and what directions are necessary?

FINDINGS

5. **ISSUES No.(iv):-** The workman (2nd party) has adduced oral as well documentary evidence. He deposed vide Ext.9 supporting the claim statement that he was engaged by Railway in project work under P.W.I Ghandhidham on 02.09.1977 and was retrenched on 24.05.1978 but seniority list was not prepared and notice or notice pay and retrenchment compensation was not given and that in view of direction of the Hon'ble Supreme Court submitted representation but he was not called for work and that he is Pujari in temple and he is not getting any remuneration. He stated in cross examination but nothing could have been gained to discredit his testimony.

The 1st party (Railway Dept.) has not adduced oral evidence. The 2nd party workman has submitted three documents with list Ext.13. Ext.13/1 copy of order dated 22.06.1995 passed by the Hon'ble Gujarat High Court in S.C.A. No. 559/94 is case filed by the workman (petitioner) against union of India by which the impugned order dated 26.03.1993 of Central Govt. refusing to refer the dispute between the parties was quashed and set aside and the authority directed to re-consider the matter for referring the dispute. It is as per order of the Hon'ble High Court that dispute was referred for adjudication vide order dated 16.10.1995 of Central Govt. Ext.13/2 in Xerox copy of representation dated 24.02.1987 of the workman Devendra Chandulal Vyas addressed to D.R.M. Ajmer through the proper channel Executive Engineer (Construction) A.D.I. Ext.13/2 clearly goes to show that original representation was received by the Executive Engineer(C) Ahmedabad. So it was bound any duty of the 1st party officer to forward the representation of the workman which was containing full details as per Railway Board's directive/ circular dated 02.03.1987 on the subject project causal labour- terms of employment regarding. So clearly the ball had been returned in the court of the 1st party with due compliance and now the ball was in the Court of the 1st party for entering the name of the workman Devendra Chandulal Vyas a retrenched project worker in the live register according to his seniority. Ext.13/3 is copy of directive/ circular of Railway Board dated 02.03.1987. Para 4 of the circular clearly speaks "Project Officers receiving representations in terms of these instructions should insure that they forward them to and get them received by their Division latest by 1st April, 1987. Verification of the genuineness of the claim and thereafter processing of the application will be done by the Division in the jurisdiction of which the applicant was initially engaged as project causal labour". In Ext. 13/2 contains 16 columns as per instruction contained in para 3 of Railway Board circular. Ext.13/2 is nicely filled with all details including date of appointment as causal labour in project 09.02.1977, date of discharged 24.05.1978, name, father's name, Date of birth, permanent address, present Address, personal mark of identification, office from which last discharged P.W.I.(C) W.Rly, Gandhidham also attached original causal labour card attested copy of photo, attested L.IT of application attached mention idle to the date against columns 13 (now employed) after discharge etc. In such view of the matter such written argument of Shri H.B. Shah vide Ext.15 that there is pretty long time i.e. after 14 years delay in raising demand in the year 1992 before A.L.C.(C) from his date of discharge 24.5.1978 has no leg to stand in view of Ext. 13/2 in compliance to Ext.13/3. In such view of the matter the case law relied upon by Shri H.B. Shah, learned Advocate for the 1st party reported in 1993 Lab I.C. S.C.1672 and A.I.R. 1993 S.C.2276 on point of delay have got no application in the instant case to defeat the claim of the workman.

6. It is true that prior to the judgment of the Hon'ble Supreme Court in the case of Indrapal Yadav. Causal labours on project have no security for their services nor their seniority counted. It was as per directive of Hon'ble Apex Court, the Railway Administration had farmed a scheme to safeguard the condition of services of the project causal labours also who were discharged from work prior to 01.01.1981 vide circular of Railway Board dated 02.03.1987 (Ext.13/3) of the 2nd party and Annexure 'D' filed by the 1st party. But such written argument of Shri H.B. Shah learned Advocate at para.14 of ext.15 that the 2nd party did not make any application or endeavor to Railway authority to prepare live register is not in consonance with the material/evidence on the record adduced on behalf of the 2nd party workman. It is manifestly clear that vide Ext.13/2 the workman Devendra Chandulal Vyas had made application/representation filling all necessary columns 1 to 16 as per direction contained in Ext.13/3/ Annexure-D addressed to D.R.M.Ajmer though proper channel Executive Engineer (c) A.D.I. It is admitted fact that the workman Devendra Chandulal Vyas was appointed as project causal worker under P.W.I(c) Gandhidham and was also discharged from project work from Gandhidham and Gandhidham Rly was falling under D.R.M.Ajmer jurisdiction since Ahmedabad was not created as separate Divisional office rather that come into being from 01.04.2003. It is also not disputed that at that time there was no post of Chief Engineer(Construction) W.R. Kalupur, Ahmedabad rather office of Executive Engineer(c) A.D.I was functioning and so application Ext.13/2 was sent to D.R.M.Ajmer via media Executive Engineer(c) A.D.I. much before expiry of last date 31.03.1987 so clearly it was sheer inaction on part of the 1st party in not including the name of concerned workman in live register for providing work to him according to seniority and there was no inaction or laches on part of workman as it has been tried to be convinced through the written argument. The 1st party has not adduced any oral evidence in support of written statement (Ext.8) rather annexure C & D attached with written argument (Ext.15) go to support the case of the workman coupled with oral evidence of workman (Ext.9), Ext.13/1, 13/2 and 13/3. It can be very well said that the concerned workman had availed opportunity to submit application (Ext-13/2) but the 1st party due its own laches failed to enter the name of workman in the live register and thus deprived the workman to take benefit under section 25H of the I.D.Act from the date 31.03.1987.

7. Such argument of the 1st party as per ext.15 has to be accepted that previously seniority list of causal labour in project work were not prepared for their reengagement because of coming to end of project work resulting in discharge/ termination of project workers in gang in mass scale and their interest of project workers was not being safeguarded until direction of the Hon'ble Apex Court in case of Indrapal Yadav followed by issue of circular of

Railway Board (Ext.-13/3)/ Annexure D. So the concerned workman cannot alleged as to contravention of section 25F of I.D.Act and so the oral evidence of workman (Ext-9) that he was not given notice or notice pay and retrenchment compensation on one hand and contention of the 1st party that all legal dues had been clear to him on retrenchment / discharged on 24.05.1978 remained not an issues in this case. Rather main point is whether the 1st party employer has acted in right way to justify its action in not giving benefit under section 25H of the I.D. Act. The answer is certainly negating the action on part of the 1st party as per discussion and consideration made in the forgoing to issue No(III). Such plea of the 1st party that workman after discharge was not sitting idle rather was earning by way of Pujari of temple is immaterial in the context that the workman had effectively within time had complied with circular dated 02.03.1987 of Railway Board (Ext.-13/3/ Annexure-D) but due to own in action on part of the 1st party the workman was deprived from taking the opportunity of his names to be entered in the live register for giving him work and thus violated section 25H of the I.D. Act.

8. Thus I find and hold that the action of the management of chief engineer (c) W.Rly, Ahmedabad in not giving the benefit under section 25 H of the I.D. Act, 1947 and even after submitting the application dated 24.02.1987 for inclusion of name in the live register of retrenched/discharged project labour Shri Devendra Chandulal Vyas is illegal and unjustified.

9. Issue no.(i), (ii), (iii): in view of the finding to issue No.(iv) in the foregoing para. 5 to 8, I further find and hold that the reference is maintainable and the workman Shri Devendra C. Vyas has valid cause of action to raise this industrial dispute and which is not at all barred by delay and laches.

10. Issue No.(v) : In view of above findings to issue No. (i), (ii), (iii) & (iv) in the foregoing I am of the considered view and therefore find and hold that the workman Shri Devendra Chandulal Vyas (2nd party) is entitled for inclusion of his name as project worker in the live register prepared by the railway department and the workman is entitled to get T.S. (temporary status) w.e.f. 31.3.1987 in view of his previous service record of project casual worker. Since concerned workman was deprived of taking benefit u/s. 25 H of I.D. Act, 1947 by not entering his name in the live register. So he is also found entitled to 50% back wages w.e.f.31.03.1987. He is also entitled for cost of litigation from the 1st party.

The references is accordingly allowed with cost of Rs. 5000/-.

The 1st party (Railway Dept. W.Rly) is directed to comply with the award within two months of receipt of copy of award failing which 50% back wages will carry interest @ 9% P.A.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 167/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/361/1998-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 167/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 26/08/2014

[No. L-12012/361/1998-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad, Dated 8th July, 2014

Reference : (CGITA) No-167/2004

Reference: (I.T.C) No-62/1999(old)

The Branch Manager,
State Bank of India,
Sumangalam Complex,
Vyaswadi, Nawa Wadaj,
Ahmedabad(GUJARAT)

.....First Party

AND

Their Workman
Shri Dahyabhai P. Chamar
141 Ratna and Popat chawl,
Kalapinagar, Asarwa,
AHMEDABAD (GUJARAT)

.....Second Party

For the First Party : Shri B.K. Oza, Advocate

For the Second Party : Shri H.K. Rathod, Advocate

AWARD

The Government of India/Ministry of labour, New Delhi vide its order No. L-12012/361/98- IR(B-I) dated 17.02.1999, referred the dispute to Industrial Tribunal, Ahmedabad(Gujarat) for adjudication in respect of the matters specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India is justified in terminating/ discontinuing the services of Shri Dahyabhai P. Chamar w.e.f. 08.10.1996? If not, what relief the workman is entitled to?”

2. The case of the workman (2nd party) as per statement of claim (ext.4) is that he joined in the service as messenger cum peon on 15.12.1986 at Bapunagar branch of State Bank of India. Though he was temporarily kept in the branch for work but actually he was working as permanent sub staff and his service was clean and blotless. He was kept also as armed Guard (watchman) in the bank and then he was engaged as peon, messenger Faras cum messenger at Ashram Road branch, thereafter he was engaged for those works at Nawa Wadaj branch. He was performing works of sub staff independently and not in absence of any body. But bank was not giving all benefits like regular/permanent sub staff. He in every year works more than 240 days but bank was not granting certificates for actual dates of works rather giving certificate of less dates of work. He was not given overtime work though he was performing; Bank was not giving bonus, not deducting P.F., not giving loan benefits, medical benefits etc. Which amounts to unfair labour practice. Further case is that Bank had prepared a common waiting list of temporary workers as per general circular of the year 1987 after inviting application and continuing interview and he had also applied and was successful in interview and his name was also included in W. List but inspite of his long service tenure he was not given permanent post and junior to him were absorbed in service and he was left and the bank authority has acted against the motto of circular. Thereafter the bank officer illegally terminated/discontinued him from 08.10.1996 from work to which he was not given notice of retrenchment nor one month notice pay and retrenchment compensation by the bank and thus mandatory provision of section 25F has been contravened by the Bank. He tried for job elsewhere after alleged oral termination by the 1st party but he could not get engagement and is sitting unemployed since then. He filed S.C.A. No. 7872/1996 before Gujarat High Court against the 1st party Bank for making him permanent and the Bank filed its reply on 13.01.1996 before the Hon'ble Gujarat High Court to the effect that his (petitioner) name in waiting list and when his turn will come he will get the chance accordingly. Thereafter

S.C.A. was withdrawn by the workman/petitioner and the S.C.A. was disposed of by order dated 27.07.1997. Further case is that the 1st party bank had prepared a separate waiting list of the candidates who were interviewed for temporary messnegerial staff in August/September 1989 and said waiting list was lapsed with effect from 01.04.1997. He came to know about it and contacted the officers of the Bank and the bank officers were giving assurance that you will be given work as per your turn in waiting list. But actually Bank had cancelled the waiting list w.e.f. 01.04.1997. The Bank has not informed the Hon'ble High Court regarding cancellation of waiting list and thus the 1st party (bank) had concealed the true fact of scrapping of wait list from the Hon'ble Court. Then Advocate notice was given to the 1st party on 11.02.1998 for keeping him in bank service but all efforts went in vain and then dispute was raised against the management of Bank before A.L.C. (Central) Ahmedabad on conciliation failure followed by this reference for adjudication. On these grounds prayer is made that the action of the 1st party in oral termination of workman w.e.f. 08.10.1996 is illegal, improper, malafide and for his reinstatement in service with full back wages with benefits of permanent sub staff and also with cost and also to grant relief to which he is found entitled.

3. As against that the case of the 1st party (S.B.I.) interlia as per written statement (Ext.7) is that the reference is no maintainable, the 2nd party (workman) has no cause of action. The claim statement of the workman from para-1 to 8 is not true and not accepted by the 1st party. It has been stated in para-6, it is true that the bank in affidavit before Gujarat High Court in S.C.A. has incorporated that the workman (petitioner) will get chance of employment as and when his turn in waiting list will come prepared in the year 1989. The said waiting list was to be in force up to 1994 but management had continued the said waiting list till 01.04.1997. It is not true that S.P. workman was performing permanent work in the bank on permanent basis rather he was performing duties temporarily in different branches of Bank as and when necessity had arisen. Bank was not sending him to different branches for work rather he was himself enquiring as to work in other branches. He was a daily rated worker or temporary worker if permanent sub staff is absent or there is shortage of permanent staff. In this way, the branch managers of Bapunagar, GIDC, Odhav, Shahpur, and Nawa Wadaj branches were engaging him as per requirement to work temporarily as messenger/messenger cum Faras watchman. The 2nd party never worked for 240 days continuously in any year. He was working as a stopgap arrangement. He was engaged for 13 days in Nawa Vadaj branch due to transfer of permanent sub staff to Dholka branch and when permanent sub staff Shri J.D. Bhagat

joined the duties in Nawa Vadaj branch the 2nd party was relieved. The 2nd party had also applied pursuant to the advertisement and he also faced interview and in waiting list prepared his serial No. was at 570. The waiting list was cancelled w.e.f. 01.04.1997 but till that the turn of 2nd party could not reach and so he could not avail opportunity of permanent recruitment in subordinate cadre in different branches of Gujarat state. So the Bank has not kicked him from the service rather as per circular of the Bank not to engage any temporary workman as stopgap arrangement from 01.04.1997., the 2nd party could not be given any work in any branches of Bank. On these scores, prayer is made to dismiss the reference since the 2nd party (workman) is not entitled to any relief.

4. In view of the rival contention of the parties in respective pleadings, the following issues are taken for determination:-

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the workman Shri Dahyabhai P. Chamar any valid caused of action in this case?
- (iii) Whether the 2nd party (workman) has completed 240 days work in calendar years while performing services in different branches of the Bank?
- (iv) Whether the action of the management of State Bank of India is justified in terminating/ discontinuing the services of the concerned workman Shri Dahyabhai P. Chamar w.e.f. 08.10.1996? If not, what the relief the workman is entitled to?

FINDINGS

5. ISSUE NO. (iii):- The concerned workman has deposed in oral evidence vide Ext.17 where as witness of the 1st party (Bank) has given oral evidence vides Ext.19. The workman in oral evidence says that he had joined the service on 18.12.1986 at Bapunagar branch. He further deposed that Bank had given advertisement for the post of messenger and he had also applied and he passed in interview further deposed the employee whose name was below his name in the waiting list was made permanent Chamar Dilipkumar Samebhai vide Ext.13/ 9 is after him and his name in the waiting list is below him was made permanent, The 2nd party submitted 38 documents with list (Ext.13) which have been given exhibits No. 30 to 68. Ext. 30 is Bank certificate of Bapunagar branch dated 04.09.1987 go to show that concerned workman worked for 64 days in the year 1986-87. Ext. 31 is Bank's advertisement notice. Ext.32 is duplicate copy of filled up application form of the workman Dahyabhai P. Chamar, mentioning worked for 64 days at Bapunagar branch. Ext. 33 is circular No. Par: IR 19/88 dated 26.04.1989 by which bipartite agreement was signed on 17.11.1989 and the temporary

candidates who completed temporary works were also made illegible for applying for post of messenger and thus workman concerned had also applied. Ext.34 is interview letter dated 31.08.1989 in the name of concerned workman for appearing at interview on 19.09.1989 at 10:00 a.m. Ext.35 is certificate of Bapunagar branch dated 11.04.1990 as to performance of work. Ext. 36 is appointment of concerned workman as temporary messenger for 2 months w.e.f. 16.11.1991. Ext.37 is appointment letter dated 20.02.1992 of D.P. Chamar as temporary Faras cum messenger from 20.02.1992 to 18.03.1992 on salary of Rs. 815 per mensem plus allowance. Ext. 38 is appointment letter date 21.04.1992 as part time sweeper cum Hemel @ 1/3 salary from, 01.04.1992 on substantive salary of Rs. 271.67 at Data processing centre Ahmedabad. Ext. 39 is certificate of Bapunagar Industrial estate branch of S.B.I. As to 147 days work by the workman Dahyabhai from 11.11.1991 to 22.04.1992. Ext.40 is copy of interview letter dated 22.08.1992 given to Parmar Ashwin Kumar Dulebhai to appear for interview on 07.09.1992. Ext.41 is certificate of Bank's Saraspur branch dated 15.10.1992 that Dahyabhai has worked as a temporary arm guard in the year 1990-91 & 1991-92 for 51 days. Ext. 42 is another certificate dated 15.10.1999 of Saraspur branch of S.B.I. that Dahyabhai has worked as temporary messenger at this branch for 71 days in the year 1992-93 from 29.04.1992 to 08.07.1992 and he also worked temporarily as arm guard for 13 days in the year 1992-93 from, 12.08.1992 to 10.10.1992 that go to show total working days $71+13=84$ days in the calendar year. Ext.43 is certificate granted by Branch manager Nava Vadaj branch, Ahmedabad dated 10.09.1994 that Dahyabhai P. Chamar worked as temporary messenger for 246 days in the year 1993 and 218 days in the year 1994 at Nava Vadaj branch. Ext. 45 is certificate of chief manager, Bapunagar Industrial sate branch dated 01.03.1995 that go to show that from 01.09.1994 to 28.02.1995 for 181 days Dahyabhai worked for 327 in the year 1994. Thus for two consecutive calendar year 1993 and 1994 the workman Dahyabhai P. Chamar has worked for more than 240 days as temporary messenger. As per Ext.44 the action of chief manager Bapunagar I.E. Branch was confirmed by Zonal Office vide letter dated 12.11.1994. As per Ext.46 which is letter of Branch manager Nava Vadaj branch to A.G.M. S.B.I., Ahmedabad regarding keeping Dahyabhai P. Chamar as Water sprinkler from 15.04.1995 @ of 1/3 of basic pay. Ext.47 is copy of demand and propose to go on one day strike of All Bank of India Staff federation which is not relevant document to be discussed. Ext.48 is extract of seniority No. 570 of Shri Dhayabhai P. Chamar is ex-temporary employee's waiting list with seal and signature Bank officer. Ext. 49 is certificate dated 27.11.1995 granted by branch manager, Shahpur branch, Ahmedabad to the effect that Shri Dahyabhai P. Chamar has worked as temporary

Faras cum messenger from 17.04.1995 to 11.08.1995 for 117 days. Ext.50 is copy of affidavit in reply of respondent No. 3 (Bank) in S.C.A. No. 7872 of 1996. Ext. 51 is letter dated 10.04.1990 of Dy. Managing Director & Corporate Development officer S.B.I., Mumbai addressing to chief General manager, S.B.I. Local Head office, Ahmedabad informing as to extending the period of waiting list up to 31st March, 1997 for filling the vacancies existing as on 31st December 1994. Ext.52 is letter of A.G.M. S.B.I. Zonal office, Ahmedabad dated 03.07.1996 addressed to the branch manager S.B.I. Dharmanagar branch, Ahmedabad on the subject of conversion of part time employees to full time. Ext.53 is copy of letter dated 05.08.1996 of Dy. Managing Director & corporate Development officer, Mumbai addressed to Chief General manager, S.B.I., Head office, Ahmedabad on the subject, Industrial dispute raised of ex temporary employees. Ext. 54 is certificate dated 10.08.1996 to Dahyabhai P. Chamar as to working for 142 days (12.08.1995 to 31.12.1995) and 33 days from 01.01.1996 to 02.02.1996 at Nava Vadaj branch, Ahmedabad. From counting the days of work of the workman Shri Dahyabhai at Shaper branch and at Nava Wadaj branch vide Ext.49 and Ext.54 in calendar year 1995 it comes to 259 days work in continuity. That means the workman had also completed more than 240 dates work in the year 1995. Thus for three consecutive calendar year 1993, 1994 and 1995 Shri Dahyabhai P. Chamar had worked for more than 240 days in the branches of S.B.I. Situated at Ahmedabad. From the certificate Ext.54, Ext.56 it appears that workman Dahyabhai had worked in continuity from 01.01.1996 to 02.02.1996 (33 days) at Nava Vadaj branch and then from 03.02.1996 to 03.08.1996 (183 days) at G.I.D.C. Odhav branch and also for 13 days as per affidavit of Bank filed before the Hon'ble Gujarat High court from 26.09.1996 to 08.10.1996 comes to 229 days in calendar year 1996. But the workman, 2nd party has claimed that he worked for more days but he was granted certificate for less dates has much weightage to infer that he in consecutive four years 1993, 1994, 1995 and 1996 worked for more than 240 days. It appears that the workman was quite known face in the organisation of S.B.I. that he is working temporarily since 1986 and is also ex temporary employee and his name is in waiting list to be absorbed in permanent recruitment and when the waiting list kept alive up to 31st march, 1997, then it put a big question mark upon the action of the management of S.B.I. that when workman's temporary services were being utilised in different branches without any break then why he was discontinued from the temporary messengerial work from 08.10.1996 and why not he was provided temporary works up to 31st March, 1997 as usual in different branches of S.B.I. At Ahmedabad. The corporate office of S.B.I., Mumbai office's direction was not to engage casual daily rated worker from 01.04.1997

and not form before. In the affidavit in reply by the Bank (respondent No. 3) in S.C.A. 7872 of 1996 has informed to the Hon'ble Court that name of petitioner workman Shri D.P. Chamar is in waiting list and when his turn will come he will be absorbed. In such view of the matter of counter affidavit of Bank, the S.C.A. No. 7872 of 96 was disposed of vide oral order dated 21.07.1997—" In view of the reply dated 13.01.1996 of respondent No. 3 wherein it has been categorically stated that the petitioner's name is there in the waiting list and he has to wait for his turn and he will also be given due benefits of his position in the operating waiting list and according to his merit position in the said list Mr. Mishra, Learned Counsel for the petitioner seeks to withdraw this special Civil Application. The same is accordingly dismissed as withdrawn at this stage." When the order of the Hon'ble Court dated 21.07.1997 was passed by that time the waiting list had already been cancelled by Bank w.e.f. 01.04.1997 but this position was not informed by the Bank by filing fresh counter affidavit before the Hon'ble Court. Thus the present 1st party Bank appears to have concealed the true facts from the Hon'ble Court before passing of oral order dated 21.07.1997. So there is every reason to believe that the management of the 1st party was very much annoyed with the workman Shri Dahyabhai P. Chamar in filing of S.C.A. before the High Court and So, much before the waiting list's life come to end w.e.f. 01.04.1997, the management of Bank discontinued him (the workman) from temporary messengerial works to which he was being performed efficiently and delinquent in different branches of S.B.I. at Ahmedabad in continuity. So actually the 1st party Bank by its own biased action discontinued him (the workman) from temporary work's w.e.f. 08.10.1996 in order to complete 240 days work in the calendar year 1996 but considering his continuity of works in previous calendar year 1993, 1994, 1995 in the different branches of Bank, he the workman notionally have completed 240 days work in the calendar year 1996.

6. With a list (Ext.8) the 1st party produced five documents .Ext. 8/1 is copy of settlement dated 17.11.1987 between state Bank of India and All India State Bank of India staff Federation which is regarding providing service to temporary employee by giving them chance to apply as per advertisement of Bank to be followed. Ext. 8/2 is circular dated 25.04.1986 of Bank in view of bipartite agreement. Ext. 8/3 is extract of one page selection of ex-temporary employees (messenger interview sheet) with seniority and that go to show the name of Shri Dahyabhai P. Chamar (SC) at seniority list 570. Form perusal of this seniority list it clearly go to show that ex-employee Madanlal R. Meena at seniority list 571 having only temporary service of 63 days was preferred to be regularly appointed then the workman at Seniority list 570 having temporary service of 64 days at Bapunagar Ind. Estate branch. Ext. 8/4 is letter

dated 05.08.1996 of corporate office, Mumbai to the chief General Manager, S.B.I. Local Head Office, Ahmedabad. This document has also been filed on behalf of the 2nd party and has already been discussed.

7. Ext. 60 is legal notice dated 11.02.1998 given to the Branch manager, Nava Vadaj, Ahmedabad on behalf of the 2nd party workman. Ext. 61 is registration receipt and Ext.62 acknowledgement receipt of legal notice. Ext. 63 is reply to the final legal notice dated 17.02.1998 of branch manager, Nava Vadaj to Shi N.V. Bhatt, Advocate of the workman. Ext. 64 is o/c of claim for reinstatement dated 27.02.1998 from Dahyabhai P. Chamar to A.L.C. (central) Ahmedabad. Ext. 65 is reply dated 25.06.1998 of Branch Manager, Nava Vadaj to A.L.C. (central) in the conciliation matter. Ext. 66 is order of Chief General Manager dated 25.02. 2000 on the joint application of 45 petitioners in view of order dated 24.08.1999 passed by the Hon'ble High Court of Gujarat in S.C.A. No. 5073 of 1999 and 5080 of 1999..... etc. ordering that the petitioner have no case for permanent absorption in the service of Bank. This order is not connected with this case. The 2nd party demanding production of certain documents by the 1st party in ref. I.T.C. 22/99 in the case of S.B.I. > vs. Ishwarbhai M. Wala which is not connected with this case. Ext. 68 is pursis filed for production of certain documents in reference case no. (I.T.C.) 24/99 (State Bank of India vs. Ishwarbhai Makwana, which is not connected with this reference case.

8. The 1st party has produced three documents with a list Ext.14 which are given exhibits No. 27, 28 and 29. Ext.27 is zerox copy of application from of the workman which has also been submitted by the 2nd party. Ext.28 is copy of certificate dated 04.09.1987 given by branch manager, Bapunagar Industrial Estate branch; Ahmedabad that Shri Dahyabhai P. Chamar has worked for 64 days a temporary messenger. This certificate has also been filed by the 2nd party. Ext.29 is Xerox copy of advertisement notice given by Local Head office, Ahmedabad.

9. However vide Ext. 16 the application filed by the 2nd party workman for production of certain documents on 13.12.2000 was not pressed by the 2nd party and so pursis as to production of documents by the 1st party (Ext.9) was disposed of by passing order (below Ext.9).

10. The 2nd party has submitted five documents with a list Ext.20 on 10.04.2008 which are exhibits- 69, 70, 71, 72, 73 after order as to production allowed. Ext. 69 is Bank circular dated 05.06.1995 not relevant document for the instant case. Ext. 70 is Xerox copy of the termination order dated 19.11.1997 of Shri Kantibhai S. Parmar sending him salary up to 19.11.1997, retrenchment Allowance up to 19.11.1997 and notice pay 19.11.1997 by A.G.M. (OD). This document has been filed to show that the Bank had given Notice pay, Salary

and retrenchment allowance to Kantibhai following the mandatory section 25F of the I.D. Act but the bank has not followed it in case of termination/discontinuation of the concerned workman Dahyabhai P. Chamar. Ext.71 is copy of reply of Bank to R.L.C. (central) in the matter of complaint of Kantibhai which is not relevant documents to be discussed in details. Ext. 72 is Xerox copy of list of subordinate staff designation wise which contain the name of 198 sub staff. From perusal of this list it appears that there are several candidates who temporarily worked for lesser period than that of workman Dahyabhai P. Chamar 64 days in the category of General, S.C., S.T. and were recruited as subordinate staff after preparation of waiting list in the year 1987 that continued in operation up to 31.03.1994 but case of concerned workman was not considered for regular appointment even considered for regular appointment even after successful interview and his name find place in seniority list. The question would also be how the candidate who worked temporarily or for zero period can be place above in the seniority list. Ext. 73 is not connected document for the instant reference case.

11. The 1st party's witness Parwati Pillai, Chief Manager of Nava Wadaj branch of S.B.I. has simply supported the stand of the 1st party but during cross examination has admitted that notice or notice pay and retrenchment compensation was not given to Dahyabhai P. Chamar, on his oral termination/ discontinuation from 08.10.1996.

12. Thus as per discussion and consideration made above, I am of the considered view and therefore find and hold that the 2nd party has completed 240 days work in calendar year 1993, 1994, 1995 and also will be deemed to have completed 240 days work notionally in view of performing continuous and uninterrupted works in different branches being temporary employee and name find place in the waiting list/seniority list as S.C. candidate. So this ISSUE No. (iii) Is decided in affirmative in favour of the 2nd party.

13. ISSUE NO. (iv):- In view of the findings to issue no. (iii) in the foregoing paras, I also find and hold that the management of the 1st party have contravened the mandatory provision of section 25F of the I.D. Act, 1947 in not giving notice to the concerned workman or one month pay in lieu of notice and the retrenchment compensation before terminating/ discontinuing the workman Dahyabhai P. Chamar. So the action of the management of State Bank of India (1st party) is not justified in terminating/discontinuing the services of the concerned workman Shri Dahyabhai P. Chamar w.e.f. 08.10.1996.

14. Previously due to violation of the mandatory provisions of section 25F of the Industrial Disputes Act by the employer, usually the casual workman who completed 240 days work in calendar year were being

granted relief for reinstatement to work with back wages to any percentage according to the merit of each case. But in the recent years there have been change in the view of the Hon'ble Apex Court that since casual worker even completing 240 days work in some calendar do not hold a post as that of regular employees, so, as a matter of right casual workers cannot claim reinstatement, rather reasonable compensation should be awarded to them. In the case of senior superintended Telegraph (Traffic) Bhopal vs. Santosh Kumar Seal & others reported in 2010 III CLR 17=2010 (6) SCC 773. It has been held by their Lordship of the Hon'ble Supreme Court (D.B) - "grant of reasonable compensation to the workman instead of reinstatement and back wages in case of termination of service is found illegal will sub serve the ends of justice." In the instant case the 2nd party workman Shri Dahyabhai P. Chamar has not been able to prove that he performed continuous and uninterrupted service right from 1986 to 08.10.1996. Rather it is proved that he performed more than 240 days work in some years and so his termination/discontinuation is illegal and unjustified action on part of the 1st party employer. So he (the 2nd party) is found entitled for reasonable compensation in this case considering his decade long temporary service rendered by him in different branches of Bank though not is continuity and uninterruptedly. So a lump sums compensation of Rs. Two Lakh only (Rs. 2, 00,000/-) is awarded to the 2nd party which has to be paid by the management of the 1st party.

15. ISSUE NO. (i) & (ii):- In view of the findings to issue no. (iii) & (iv) in the foregoing, I find that the reference is maintainable and the 2nd party workman has valid cause of action to raise industrial dispute against the management of the 1st party.

As per findings above the reference is allowed in part. No order as to any cost.

The 1st party is directed to implement the award within two months of receipt of copy of award failing which the amount of compensation will carry interest of 9% per annum.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2412.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ जनरल मैनेजर, ईस्टर्न टेलीफोन सर्किल, टेलीकॉम, हज़रतगंज के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 1/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-40012/66/2004-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2412.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 1/2005) of the Central Government Industrial Tribunal Cum Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Chief General Manager, Eastern Telephone Circle, Telecom, Hazratganj and their workman, which was received by the Central Government on 26/08/2014.

[No. L-40012/66/2004-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT : Dr. MANJU NIGAM, Presiding Officer

I.D. No. 01/2005

Ref. No. L-40012/66/2004 – IR(DU) dated: 24.11.2004

BETWEEN

Sh. Laxman Prasad
Village Bhawani Bari
PO Nahiya
Varanasi (U.P.)

AND

The Chief General Manager
Eastern Telephone Circle, Telecom
Hazratganj
Lucknow.

AWARD

1. By order No. L-40012/66/2004 – IR(DU) dated: 24.11.2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Laxman Prasad, Village Bhawani Bari, PO Nahiya, Varanasi (U.P.) and the Chief General Manager, Eastern Telephone Circle, Telecom, Hazratganj, Lucknow for adjudication to this CGIT-cum-Labour Court, Lucknow which was adjudicated vide order dated 18.08.2011. The workman moved an application to recall the order dated 18.08.2011, which was registered as Misc. Case No. 02/2011. This Tribunal after considering the facts narrated in the application for recall, recalled the order dated 10.08.2011 and revived the present industrial dispute on its original number vide order dated 29.03.2012 in Misc. Case No. 02/2011.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE CHIEF GENERAL MANAGER OF BSNL IN TERMINATING THE SERVICES OF SH. LAXMAN PRASAD S/O SH. KANAHAIYALAL W.E.F. 1/5/99 FROM THE POST OF CHOWKIDAR IS JUSTIFIED AND LEGAL? AND IF NOT, FOR WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

3. The case of the workman, Laxman Prasad, in brief is that he was duly selected and appointed as class Chowkidar and worked continuously with the opposite party since June, 1987 up to April, 1999 when his services have been terminated by the management without any notice or notice pay in lieu thereof or any retrenchment compensation in violation of the provisions contained in Section 25 F of the Industrial Disputes Act, 1947. It has been alleged by the workman that several juniors are still working with the opposite party and the management of the opposite party instead of regularizing him, terminated his services and retained others, therefore, it is prayed that his termination be declared illegal and he be reinstated with consequential benefits including continuity in service and back wages.

4. The management of the BSNL has filed its written statement; wherein it has denied the claim of the workman had never went through the prescribed procedure for appointment nor was appointed by any competent authority. It is submitted that the workman was engaged as casual labour on daily rate basis, in the exigencies and his services come to an end automatically with the end of the work; as such, there was no termination of his services at any point of time. The management has submitted that since there was no formal termination, therefore, there arises no question of violation of any of the provisions of the I.D. Act. The management has denied retention of any junior and termination of the workman in violation to the provisions of the Act. Accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit.

5. The workman has filed rejoinder whereby he has only reiterated his averments already made in the statement of claim and has introduced nothing new.

6. The parties have filed documentary proof in support of their respective cases. The workman has examined himself whereas the management examined Shri J. Prasad, Assistant General Manager in support of their case. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral arguments.

7. Heard representative of both the opposite party and perused evidence on record.

8. The authorized representative of the workman has argued that the management of the BSNL has terminated the services of the workman without complying the mandatory provisions of the section 25 F of the Act, though the workman has completed 240 days continuous working in each year. It has also argued that the management has retained the juniors while has terminated the workman instead of regularizing him for no reason.

9. Per contra, the representative of the BSNL has argued that the workman was never appointed by the BSNL following prescribed procedures for the recruitment in the BSNL nor was appointed by any competent authority, making him eligible for regularization. It is also contended that the workman did not complete mandatory 240 days in a year to comply with the provisions of 25 F of the Act.

10. The workman has photocopy of various certificate showing working details with the BSNL. The management has not filed any document in rebuttal.

11. I have given my thoughtful consideration to the rival contentions of the authorized representatives of the parties and scanned entire evidence on record.

12. It is the case of the workman that he worked with the opposite party continuously for the period June, 1987 to April, 1999; but the management of BSNL instead of regularizing his services, terminated his services without any notice or notice pay in lieu thereof in contravention of the provisions contained in the section 25 F of the I.D. Act, 1947 instead of fact that he worked for more than 240 days in each calendar year. It is also the case of the workman that the management retained juniors while terminated him in contravention to the provisions of the Act.

13. It is settled law that when the workman comes forward with the case that his services have been terminated without following the provisions of section 25 F of the Act, then burden of proof heavily lies upon him that he had worked for 240 days in the preceding twelve months from the alleged date of his termination. In his cross-examination the workman has stated that he has not been given any appointment letter and he has been appointed by DET department.

In rebuttal, the management witness stated that the workman worked from August, 1990 to December, 1990 in Amethi TRC Project and they have been terminated after end of the project. In cross-examination, it was stated that the management could not file any paper relating to the workman for reasons that the matter is 10-12 years' old one.

14. Although the workman has claimed to having worked for more than 240 days in each calendar year and has photocopy of certain certificates, which are regarding his working, detailed as under:

- (i) From June, 87 to July, 89, paper No. 3/5.
- (ii) From Aug, 89 to Oct, 89, paper No. 3/6.
- (iii) From November, 89 to February, 90, paper No. 3/7.
- (iv) From March, 90 to June, 90, paper No. 3/8.
- (v) From Jan, 91 to Dec, 91 for 254 days, paper No. 3/9.
- (vi) From Jan, 92 to Aug, 92 for 244 days, paper No. 3/10.
- (vii) From Sep, 1995 to December, 95 for 92 days, paper No. 3/10A.
- (viii) From March, 96 to Dec, 96 for 216 days, paper No. 3/11.
- (ix) From Jan, 97 to Dec, 97 for 345 days, paper No. 3/12.
- (x) From Jan, 98 to Dec, 98 for 246 days, paper, No. 3/13.
- (xi) From Jan, 99 to April, 99 for 120 days, paper No. 3/15.

The management has neither admitted not denied the above photocopy of the certificates in support of his working details filed by the workman. However, the management witness, Shri J. Prasad admitted the paper No. 3/6 & 3/7. He could not state about other documents for reasons his posting was elsewhere. The management has not filed any documents to curtail the claim of the workman. Hon'ble Gujarat High Court in Director, Fisheries Terminal Division vs. Bhakubhai Meghajibhai Chavda 2010 AIR SCW 542; has observed that for proving 240 days' continuous working, the workman would have difficulty in having access to all official documents, muster rolls etc., in connection with his service, therefore, the burden of proof shifts to the employer to prove that he did not complete 240 days of service in requisite period to constitute continuous service.

15. It is the case of the workman that he worked for more than 240 days in each year even then the management of BSNL has terminated his services, in violation to the provisions of Section 25 F of the Industrial Disputes Act, 1947. In Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC) Hon'ble Apex Court came to the conclusion that in order to claim the benefits of provisions of Section 25 F of the Act, the burden is on the workman to prove by cogent evidence that he was actually in employment for 240 days in twelve months preceding the date of alleged termination; and where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly in a year preceding the date of termination, he is not entitled to the protection of section 25 – F of the Industrial Disputes Act, 1947. It

was held by the Hon'ble Supreme Court in above case that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of Section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

“The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination.”

16. Thus, in view of the case cited hereinabove, the scope of scrutiny before this Court is limited to twelve preceding months from the date of termination i.e. from May, 1998 to April, 1999 and see as to whether the workman worked for 240 days in that time period to arrive at any conclusion as to whether the management of BSNL violated the provisions contained in the Section 25 F of the Act while terminating the services of the workman in April, 1998. The workman has number of papers in support of his contention but the papers which are relevant for proper adjudication of the case are paper No. 3/13 and 3/14, the details of which as under:

S. No.	Month	No. of days worked
1.	May, 98	31
2.	June, 98	30
3.	Sept, 98	30
4.	Oct, 98	31
5.	Nov, 98	30
6.	Dec, 98	31
7.	Jan, 99	31
8.	Feb, 99	28
9.	March, 99	31
10.	April, 99	30
Total		303

17. Thus, there is ample evidence to record this finding that the workman had actually worked for 303 days in preceding twelve months from the date of his alleged termination i.e. April, 99; and termination of his services, without any notice or notice pay in lieu thereof was in violation of the Section 25 F of the I.D. Act.

18. Now, it is to be considered as to whether the workman is entitled for reinstatement. From the evidence produced by the workman it is not proved that his

appointment was as a regular worker. But from the certificates of working filed by the workman it is clear that he was engaged as on daily wages. In *Haryana Roadways vs. Rudhan Singh* (2005) 5 SCC 591; 2005 SCC (L&S) 716 Hon'ble Apex Court while considering the question regarding award of back wages has observed:

“There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25 F of the Act, entire back wages should be awarded However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which required to be taken into consideration, is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year.”

19. In 2008 (119) FLR 877 *Deepak Ganpat Tari vs. N.E. Theater Pvt. Ltd.* Hon'ble Bombay High Court relying on the Hon'ble Apex Court's judgment in 2008 (117) FLR 1086 (SC) A P V K Brahmandandam 2008 (118) FLR 376 (SC) Telephone DM vs. Keshab Deb 2006 (111) FLR 1178 (SC) JDA vs. Ram Sahai, while awarding compensation of Rs. 1,50,000/- to the concerned workman considering his daily wages as Rs. 45/- in view of the fact that the workman had put in about 3 years of service, has observed as under:

“It is apparent that termination of services of a daily wagger does not amount to retrenchment and for violation of Section 25 F in such circumstances, the employee cannot be given benefit of reinstatement with continuity and back wages. Hon'ble Apex Court has hold that in such circumstance employee is entitled to benefit of compensation only.”

20. Also, in *Jagbir Singh v. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545: Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal and Others (2010) 2 SSC (L&S) 309 Hon'ble Apex Court has observed as under:

“However, in recent past, there has been a shift in the legal position and in a along line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded.”

21. In the light of principle laid down in aforementioned case laws, it would not be just and proper to direct that the workman be reinstated in service. The ends of justice would meet by paying compensation to the workman instead in place of relief of reinstatement in service.

22. Having regards to these facts that the workman has worked as daily wager from June, 87 to April, 99 and he was getting Rs. 25/- per day and keeping in view the entire facts of the case and the law, the interest of justice would be subserved, if, management is directed to pay lump sum amount of compensation only.

23. Accordingly, the management is directed to pay a sum of Rs. 60,000/- (Rupees Sixty Thousand only) to the workman as compensation for termination of his services in violation of Section 25 F of the I.D. Act. The said amount shall be paid to the workman within 08 weeks of publication of the award, failing which; the same shall carry simple interest @ 8% per annum.

24. The reference is answered accordingly.

LUCKNOW

20th August, 2014

Dr. MANJU NIGAM, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2413.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकॉम डिस्ट्रिक्ट इंजीनियर, टेलीग्राफ्स, बीएसएनएल यवतमाल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/30/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-40012/165/2002-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. Case No. CGIT/NGP/30/2003) of the Central Government Industrial Tribunal Cum Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between

the employers in relation to the management of the Telecom District Engineer, Telegraphs, BSNL, Yavatmal and their workman, which was received by the Central Government on 26/08/2014.

[No. L-40012/165/2002-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE SHRI J.P.CHAND, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT,
NAGPUR**

Case No. CGIT/NGP/30/2003

Date: 07.08.2014.

Party No. 1: The Telecom District Engineer,
Telegraphs, BSNL, Yavatmal,
Yavatmal (MS).

Versus

Party No. 2: Shri Nandraj Gopalrao Nagarale,
At. Vithalwai, Near Sandip Talkies,
Vithalwadi.

AWARD

(Dated: 7th August, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) (“the Act” in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Telegraphs, BSNL, Yavatmal and their workman, Shri Nandraj Gopalrao Nagarale, for adjudication, as per letter No.L-40012/165/2002-IR (DU) dated 09.01.2003, with the following schedule:-

“Whether the action of the management in relation to Telecom District Engineer, Yavatmal under the erstwhile Department of Telecommunication and present Bharat Sanchar Nigam Ltd. in terminating the services of Shri Nandraj Gopalrao Nagarale on 10.11.1988 is legal and justified? If not, to what relief the workman is entitled?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri Nandraj Gopalrao Nagarale, (“the workman” in short), filed the statement of claim and the management of Telecom District Engineer (“Party No. 1” in short) filed their written statement.

The claim of the workman is that he passed S.S.C. in 1974 and in March, 1980, he was engaged as a casual mazdoor by the Party No.1, on nominal muster roll (NMR) and wages was used to be paid to him on monthly basis and the work that was taken from him was that of a Telephone Mazdoor and in that capacity, he worked continuously from March, 1980 till 10.11.1988, without

any break and his work was satisfactory during the entire period and no superior had any complaint about his work and on 12.11.1988, a criminal case bearing Crime No.92/88 was registered against him, under sections 306 and 498(A) of the Indian Penal Code, on the allegations that he was responsible for the death of his wife and that he had ill-treated her and he was arrested by the Police on 10.11.88 and was in judicial custody for a period of one month, where after, he was released on bail and a charge-sheet was filed against him and he faced sessions trial No.24/89, in the Court of Sessions Judge, Yavatmal, under sections 302, 306, 498(A) and 201 of the India Penal Code and vide order dated. 22.02.1995, he was acquitted by the learned sessions judge of the charges and the Party No.1 had issued guidelines dated 07.06.1990 regarding the grant of temporary status to the casual Mazdoors and the eligibility criteria required for the same and the said guidelines prescribe that those who had completed 240 days of work during 12 calendar months prior to 30.03.1985 are eligible for confirmation and according to the Party No.1, he had worked for 2835 days up to 31.03.1990 and he was also sponsored by the Employment Exchange vide letter No.227/82 dt.25.08.1982 and the Telecom District Engineer, Amravati prepared a list of casual mazdoors under TDE, Yavatmal, wherein, he had been placed at Sl.No.11 in order of seniority, having completed 2835 days during bifurcation of casual mazdoor under Telecom District Engineer, Amravati and on 30.04.1985, the SDO, Yavatmal issued a certificate in his name, showing the number of days he had worked as on 31.03.1985 and according to the said certificate, he had already worked for 1540 days from March, 1980 and on 21.09.1982, a letter was also issued to him, directing to attend duty with the working party of Shri V.P.Gunjal and by letter dated. 25.07.1983, he was asked to work at Vasco, Goa and on 10.02.1989, he made an application for release of his salary from November, 1988, which was withheld and on 05.01.1989, he applied for grant of work of regular mazdoor and he repeated his request on 14.04.1989 and again he applied for work on 10.02.1989 and on 12.05.1989 and 09.10.1989, he repeated the said request and after his acquittal in the criminal case on 22.02.1995, on 09.03.1995, he made an application intimating the Party No.1 about his acquittal and to allow him to resume duty and thereafter, he repeated the request on many occasions, but despite his repeated requests, the Party No.1 did not take any action and did not provide him any employment, even though, he should have been made regular in service, as per the guidelines dated.07.06.1990 and as the Party No.1 avoided to employ him, he approached the Conciliation Officer and on failure of the conciliation, failure report was submitted by the Assistant Labour Commissioner (Central), Chandrapur to the Central Government and he had never abandoned the service and during the pendency of the proceedings filed by him, some workers,

junior to him, namely, V.T.Ambuikar, S.T.Lachme, R.D.Tondare, G.C.Lokhande, K.R.Nakwal, V.R.Dhenge, B.U.Telang, V.L.Kewaikar and P.S.Sarode at serial Nos. 355 to 363 in the list were made regular Mazdoors on 18.06.2001, in violation of the provisions of Section 25-H of the Act and not only that, the persons from serial Nos. 12 to 70 in the said list of TDE, Yavatmal circle were retained in service and made regular Telephone Mazdoors, even though they were juniors to him.

It is also pleaded by the workman that despite the repeated request made by him in writing, party No.1 did not allow him to resume duty and therefore, it is a case of otherwise termination of his services and he had completed 240 days of work in each year of service including the preceding year of the date of his such termination within the meaning of Section 25-B of the Act and Party No.1 was obliged in Law to give him one month's notice, with intimation to the appropriate Government and retrenchment compensation, but nothing of that sort was done, so his termination was illegal and the noncompliance of the mandatory provisions vitiated the termination and his termination was in colourable exercise of power of the employer and unfair labour practice.

The further case of the workman is that from the date of his illegal termination from service, he is not gainfully employed and in spite of his efforts, he could not able to get another job and he is facing hard days in his life and he is entitled for reinstatement in service with continuity and full back wages w.e.f. 11.11.1988 or at the most, a month thereafter, i.e. the period he had spent in jail or at least from 10.02.1989, when he first applied for resuming duty, after his release on bail and in view of the guide lines of party No.1, he is also entitled for regularisation w.e.f. 30.03.1985 and all consequential benefits.

3. The Party No.1 in its written statement has pleaded inter-alia that the workman was engaged as a casual mazdoor by it and he was allowed to do the work of casual labour only and the engagement of the workman was on daily wages basis on muster roll and not on monthly basis and special work orders were being issued in which, number of days and nature of work were mentioned by the competent authority of the section and records were maintained accordingly and by issuing work order to the Mustering Officer, the services of the workman were being utilized and it was not aware about the initiation of the criminal case against the workman by the Police and the workman had never intimated it or the mustering officer about the registration of the case against him and as the workman did not come to work, the mustering officer vide letter dt.25.11.1988 and dated 09.12.1988 asked the workman to come and join duties within three days of the receipt of the letter or else to remove his name from the list of casual labours of Yavatmal Division and

the workman did not turn up to join his duty within the stipulated period and in the mean time, the department issued notification regarding recruitment of Group D post in the year 1991. Vide notice dt.26.11.1991, by giving wide publicity in all the units of Yavatmal Division and the said notice was also placed on the notice board of the Division Office and in spite of such notification and publicity of the notice, the workman did not submit any application for employment and the letters issued by the workman were not considered, since it was not in need of extra casual labourers at that relevant time and as the workman left the work without intimating anything to it and remained absent for a long time, he was treated as absconding, since his whereabouts was not known and as his name was removed from the list, the letters received from him were not taken into consideration and the name of the workman was not considered further and juniors, who have been named in the petition by the workman, were continuously working in the Yavatmal Division at the time of publication of the notification dated 14.08.1991 for regularization of Group D post in Yavatmal Division and there is no master-servant relationship between it and the workman.

It is also pleaded by party no.1 that issuance of guidelines dated 07.06.1990 has no relevance to the case of the workman and the said guidelines are not applicable to his case and the nine casual labourers, whose names have been mentioned in the statement of claim were part-time labourers working with it since long and even prior to the workman and those labourers were paid wages equal to the number of hours of duties performed by them and as per the direction of the Chief General Manager, Telecom, the services of the said nine labourers were regularized and as the workman was engaged as a casual mazdoor, he cannot be considered as a part time employee and accordingly cannot be considered for regularisation and the workman had not completed 240 days of work and he was not entitled for retrenchment compensation.

The further case of party no.1 is that after his termination w.e.f. 10.11.1988, the workman was driving LMV Minidor (Bajaj Tempo) for his survival and the said vehicle has been registered in the name of the workman as the owner with RTO, Yavatmal, bearing registration no. MH 29-1979 and as such, the contention of the workman that he had no source of income after termination has no force and the workman is not entitled to any relief.

4. It is necessary to mention here that on 11.03.2011, award was passed in the reference directing the party no.1 to reinstate the workman in service with seniority and to regularize his service as per his juniors, who have already been regularized. Being aggrieved by the said award, party no.1 approached the Hon'ble High Court of Judicature of Bombay, Nagpur Bench at Nagpur in writ petition no. 3246/2011, for redress. The Hon'ble High

Court was pleased to allow the writ petition and passed the following orders:-

“Considering all these facts, I find that interest of justice can be met with by extending the parties a fresh opportunity to lead proper evidence to substantiate their contentions, so as to enable the CGIT to find out the entitlement of the respondent to reinstatement and other consequential benefits in accordance with Law.

The facts show that even after his apprehension by the police machinery, name of the respondent continued in muster roll and it has been removed sometime thereafter. In this situation, the interest of justice can also be met with by directing petitioner to provisionally pay to the respondent an amount equal to the minimum wages at current rate, every month commencing from 15th January, 2012 onwards for a period of 7 months. In view of the statement made by the learned counsel for the petitioner, that recruitment on daily wages is totally discontinued, the petitioners are directed to pay an amount equal to current minimum wages to the respondent every month. This payment is ordered in terms of Section 17-B of the Industrial Disputes Act. The respondent shall collect the amount payable to him for the period from 15.01.2012 to 30.01.2012 by approaching the office of petitioner at Yavatmal by 10th day of February, 2012. He will collect the said amount payable for subsequent months similarly by 10th of each succeeding month. The parties are at liberty to amend their pleadings, if they are so advised and lead additional evidence on record.

After giving parties necessary opportunity, the CGIT shall pronounce fresh award in the matter. xxx
xxxxx xxxxx xxxxxxxx

Subject to this, the impugned award is quashed and set aside. Petition is thus partly allowed. Rule is made absolute in the aforesaid terms, with no orders as to cost.”

It is also necessary to mention here that on 09.03.2012, an application for amendment of the statement of claim was filed by the workman. After hearing of the parties, the application for amendment of the statement of claim was rejected on 07.05.2012. Being aggrieved by the said order, the workman filed writ petition no. 2695/2012 before the Hon'ble High Court, Nagpur Bench and the Hon'ble High Court by order dated 25.09.2012 allowed for amendment of the statement of claim in respect of the claim of the workman that he was not gainfully employed after his termination and in view of the order passed by the Hon'ble High Court in writ petition no. 2695/2012 dated 25.09.2012, the workman made amendment of the statement of claim and inserted

the facts that he was not gainfully employed after his termination from services and he is entitled for full back wages. The party no.1 also refuted such pleadings made in the statement of claim, by making necessary amendment in the written statement.

5. At this juncture, I think it necessary to mention that in order to prove his case, the workman had examined himself as a witness, besides placing reliance on documentary evidence. The party no.1 had also examined one Shri Vithoba Kaoduji Bhagat as a witness in support of its case. After remand of the reference by the Hon'ble High Court, with liberty to the parties to lead proper evidence to substantiate their contentions, the workman filed his evidence afresh on affidavit on 10.01.2013. Party no.1 examined another witness, namely, Shri Ashok N. Bende as a witness in support of its case.

6. The workman in his evidence on affidavit has reiterated the facts mentioned in the statement of claim. The workman has also proved the documents filed on his behalf as Exts. W-II to W-XXI. In his cross-examination, the workman has stated that he had intimated the department regarding his arrest on 10.11.1988 in a criminal case, by the police and he was in custody for one month under the letter Ext. W-IX. He has however admitted that in Ext. W-IX, nothing has been mentioned by him regarding his arrest in a criminal case by the police and his detention in custody for one month and he has not filed any document to show that he worked for 240 days in any calendar year. It is also admitted by the workman that Ext. M-I is the copy of the letter given by the ALC, Chandrapur to the party no.1 to allow him to join duty, but he was not allowed to join duty by the management, as per the direction of the ALC, so he raised the dispute.

In his cross-examination, the workman has further admitted that Auto no. MH-29-1979 is registered in his name and he maintains his family from the income of the said auto and Exts M-II and M-III are the copies relating to the registration of the auto, MH-29-1979 in his name.

7. The previous witness, Shri Vithoba K. Bhagat examined on behalf of the party no.1 had reiterated the facts mentioned in the written statement in his evidence in affidavit. This witness in his cross-examination had admitted that the circular dated 07.06.1990 was in respect of the absorption of the casual labourers after giving them temporary status and clause 10 of the said circular prescribed the procedure of dealing with the case of a worker, who did not attend the work and remained absconding. This witness had categorically admitted that the workman had worked continuously from 1980 to 1988 and juniors to the workman were already regularized and the workman had not been paid retrenchment compensation or notice of termination of his services.

8. The evidence of the witness, Shri Ashok N. Bende, who has been examined by party no.1, after remand of the reference by the Hon'ble High Court, is on affidavit. This witness has also reiterated the facts mentioned in the written statement, in his examination-in-chief. This witness has also proved the office copy of the letters dated 25.11.1988 and 09.12.1988 issued to the workman as Exts M-V and M-VI respectively and the notification issued by party no.1 regarding the eligibility of the casual labourers as Ext. M-VII.

In his cross-examination, this witness has admitted that the workman did not work under him directly and he has no personal knowledge about the engagement of the workman and a seniority list was being maintained by the department for the casual labourers and Ext. W-V is the said list and the name of the workman was at serial no.11 in Ext. W-V, the list of casual mazdoors under TDE Yavatmal and the document, Ext. W-VI was issued by the S.D.O., Telegraph, Yavatmal in favour of the workman. This witness for the party no.1 has further admitted that he has no personal knowledge about sending of the letters Exts. M-V and M-VI to the workman and no document has been filed to show that Exts. M-V and M-VI were served on the workman and the dispatch register showing the dispatch of Exts. M-V and M-VI to the workman has not been filed and no action was taken by the management to remove the name of the workman from the seniority list, even though it is alleged that the workman did not join duty, even after issuance of Ext. M-VI and he cannot say if the workman had approached the management in writing as per Exts. W-X to W-XIX to provide work to him, in between 10.02.1989 to 21.02.2002. It is admitted by this witness that as per Ext. W-XX, the S.D.O., Telegraphs, Yavatmal, on 28.03.1995 had requested the T.D.E., Yavatmal to accord sanction, for reinstatement of the workman and no letter was sent to the workman by registered post.

9. At the time of argument, it was submitted by the learned advocate for the workman that the workman was engaged as a casual mazdoor by party no.1 in March, 1980 and his name was in the muster roll and he was paid wages on monthly basis and the work, which was being performed by the workman was of regular nature and the same was and is available round the year and the workman was in continuous employment of party no.1 from March, 1980 to 10.11.1988 and on 10.11.1988, he was arrested by the police in crime no. 92/1988, registered under section 306 and 498-A of I.P.C. and he was in judicial custody in the said case for one month and thereafter, he was released on bail and he faced his trial in the court of 3rd Additional Sessions Judge, Yavatmal in sessions Trial no. 24/89 and was acquitted on 22.02.1995 and due to his arrest by the police and detention in Judicial custody, the workman could not able to attend his duty from 10.11.1988 and the workman had

completed more than 240 days of continuous service and as per the circular dated 07.06.1990, the workman was entitled to get temporary status and regularisation and such fact has not been disputed by the party no.1 and the workman made several representations as per Exts. W-IX to W-XIX to take him back on duty, but party no.1 did not take any action in the matter, inspite of receipt of the representations and party no.1 never issued any notice to the workman about his remaining absent from duties and though Exts. M-V and M-VI were produced by the management, no document has been filed by the party no.1 to show that the same were received by the workman and the name of the workman was also not removed from the roll of the party no.1 and except the workman, other employees enlisted in the list were regularized by the party no.1 and from Ext. XX, it is clear that the workman had approached the party no.1 to take him back in service and the SDO, Yavatmal recommended the matter to higher authority for sanction and as the workman had completed 240 days of work, it was incumbent for party no.1 to comply with the mandatory provisions of sections 25-F and 25-G of the Act, but such mandatory provisions were not complied with, so the termination of the workman was illegal and the workman is entitled for reinstatement in service with continuity, full back wages and for regularisation in service.

In support of the contentions, the learned advocate for the workman placed reliance on the decisions reported in (1980) 4 SCC-443 (Surendra Kumar Vs. CGIT), (2009) 9 SCC-129 (Anil Kumar Vs. Presiding Officer), (2001) 2 SCC-423 (Vikramaditya Vs. Industrial Tribunal), (2003) 12 SCC-548 (U.P. State Vs. Rajesh Kumar), (2005) 9 SCC-365 (Union of India Vs. Ramchander), (2005) 12 SCC-181 (Executive Engineer Vs. Lekhraj), (2005) 12 SCC-283 (Executive Engineer Vs. Pargat Singh), (2005) 13 SCC-578 (Sonpath Coop. Sugar Mills Ltd. Vs. Rakesh Kumar), (2006) 4 SCC-733 (UPSRTC Ltd. Vs. Sarada Prasad), (2007) 15 SCC-524 (State of Haryana Vs. Saminder Singh), (2007) 15 SCC-536 (Ranjit Kumar Vs. UB Engineering Ltd.), (2010) 1 SCC-47 (Director Fisheries terminal Dept. Vs. Bhikubhai), (2010) 3 SCC-192 (Harjinder Singh Vs. Punjab State Warehousing Corporation), (2010) 3 SCC-637 (Krishan Singh Vs. Executive Engineer), (2010) 5 SCC-497 (Anoop Sharma Vs. Executive Engineer PHD), (2001) 10 SCC-606 (Deepchandra Vs. State of U.P.), (2010) 12 SCC-487 (Manager KVSS Vs. Mukesh Kumar), 2013 (2) Bom CR-749 (Laxmi Bharat Babise Vs. Permanent Magnets Ltd.) and (2013) 10 SCC-324 (Deepali Gundu Surwase Vs. Kranti Junior Adhayapak Mahavidhyalay.

So, now, keeping in view the principles enunciated by the Hon'ble Apex Court in the decisions cited by the learned advocate for the workman, the present case in hand is to be considered.

10. In reply, it was submitted by the learned advocate for the party no.1 that the workman has voluntarily abandoned his services and there is no work available with it for engaging casual labourers and the workman has filed twenty documents and it has filed seven documents and the workman in his cross-examination has admitted that Ext. W-IX does not show that under the said letter, he had intimated the party no.1 about his arrest in a criminal case and his detention in judicial custody in that case for one month and he has also admitted that he has not filed any document to show that he had worked for 240 days in one calendar year and that there is no official seal on Exts W-X, W-XI and W-XII and the workman had admitted that Auto no. MH-29-1929 is registered in his name and he maintains his family from the income of the auto and since the workman is gainfully employed, he is not entitled for back wages and reinstatement in service and it is clear from the unshattered evidence of the witness, Mr. Ashok that letters were issued to the workman to join duties within 3 days, but he failed to join duties, for the reasons best known to him and workman has failed to prove that Exts. M-V and M-VI were not received by him and as the workman is gainfully employed, he is not entitled to back wages and the workman is not entitled to any relief.

11. Perused the record and the evidence adduced by the parties. It is found from the materials on record including the documents, Exts. W-V and W- VI that the workman had worked from March, 1980 to 10.11.1988 with Party No.1. The witness No.1 examined on behalf of the Party No.1 in his evidence has also admitted that the workman was working from 1980 to 1988 continuously. The case of the Party No.1 is that the workman remained absent for a long time, so two notices dated 25.11.1988 and 09.12.1988 were issued as per Exhibits M-V and M-VI, directing him to resume duties immediately or else, his name would be removed from the seniority list of casual labourers.. However, there is nothing on record to show as to how the notices were sent to the workman. There is also nothing on record to show that the said notices were on the workman. The party No.1 has failed to produce any evidence to show that the two letters were delivered to the workman or served on him. Even the dispatch register showing the dispatch of the said letters has not been filed at-least to show that the same were sent to the workman. The witness for the party No.1 has admitted such facts in his cross-examination. Moreover, there is nothing on record to show that basing on those letters, the name of the workman was removed from the list of casual labourers of Yavatmal.

The party No.1 has claimed that the workman had never intimated it about his arrest by the police and his detention in jail custody for one month in connection with the criminal case registered against him, due to the

death of his wife and it did not have any intimation about such facts. However, the own document of the party No.1 shows that the said contention not to be correct. Ext. W-III is the copy of the list prepared by the party No.1 in respect of the casual labourers working under the SDO (T), Yavatmal. In the said list, the name of the workman has been entered at serial no. 41. In the remarks column against the name of the workman, it has been mentioned that, "He was arrested by the police in a criminal case in Nov. 89. Since then absent on duty until now." Ext. W-III clearly shows that party No.1 knew very well about the arrest of the workman and for that he remained absent from duty.

Party No.1 has not denial the issuance of the letters by the workman including the letter dated 05.01.1989. It is pleaded by the party No.1 that the letters issued by the workman were not considered, since it was not in need of extra casual labourer at the relevant time. In view of such facts and admission of party No.1 about receipt of the letters given by the workman, it is clear that the claim of party No.1 that the workman left the work without intimation and remained absent for long time and he was treated as absconding since where-about was not known, is not true. It is also clear that the workman had not absconded and he did not attend duty for some days due to his arrest by the police and detention in jail custody for about one month. It is also found from the document, Ext. W-II that the workman was acquitted in the sessions case registered against him on the allegation of committing the murder of his wife. So the claim of the Party No.1 that the workman abandoned the work and remained absent for a long time cannot be believed. Admittedly, the workman had worked for more than 240 days, preceding the 12 months of the date of termination, i.e. 11.11.1988 and as such, his termination can be treated as retrenchment. Due to non-compliance of the mandatory provisions of sections 25-F and 25-G, the termination of the service of the workman becomes illegal. Hence, it is held that the termination of the services of the workman without compliance of the provisions of sections 25-F and 25-G is illegal and not justified.

12. It is clear from the circular No. Recct.-III/7/orders/III dt.07.06.1990, Ext. W-III that the Chief General Manager (Telecom), Maharashtra Circle, Bombay had issued the said circular containing the guidelines to grant of temporary status to the casual mazdoors and according to that guidelines, all the casual mazdoors were eligible for conferring temporary status who were employed before 30.3.85 and completed continuous service of 240 days during any 12 calendars months before 30.03.1985, without any consideration of break up service either due to departmental or own reasons. Accordingly to Ext. W-III, a list of such casual labourers had been prepared by the Telecom District Manager, Amravati on 14.8.90, which was much after the letters, Exts. M-V and M-VI,

alleged to be sent by the Party No.1 to the workman and in that list, the name of the present workman is found to be at Sl.No.11 in the list of the casual mazdoors under TDE, Yavatmal and the number of working days of the workman was shown to be 2838 days. According to clause 10 of the circular mentioned above, "If a temporary mazdoor is found absconding, he should be served with a notice under registered cover by post for reporting for duty immediately. If he does not turn up, another notice should be sent giving 10 days time mentioning definite date to join. If he does not report again, one more notice should be sent indicating that his services will be terminated and his name will be struck off from the seniority list of temporary mazdoors, if he continuous to abscond any further. After 10 days, if he does not report action should be taken to terminate his services. All correspondences should be made with intimation to Labour Commissioner."

In the present case, Party No.1 has admitted about the workman making correspondence with it for his engagement. There is nothing on record to show that the procedures given clause 10 of the circular mentioned above were complied with. Hence, it is found that the action of the management in not reinstating the workman as per the said circular is not justified.

13. Now, the question remains for consideration is as to what relief or reliefs, the workman is entitled. It is now well settled that to claim back wages, it is necessary for the workman to plead and prove that he is not gainfully employed from the date of the alleged termination of his service. As already mentioned above, the workman by way of amendment to the statement of claim has pleaded that he is not gainfully employed from the date of his termination of his service. In his evidence on affidavit also, he has stated so. However, in his cross-examination, the workman has admitted that Auto no. MH-29-1979 is registered in his name and he maintains his family from the income of the said auto and Exts M-II and M-III are the copies relating to the registration of the auto, MH-29- 1979 in his name. It is clear from the own admission of the workman that he is gainfully employed. Hence the workman is not entitled for any back wages. However, in view of the circular of the Chief General Manager dated 07.06.1990, Ext. W-III and list of the casual mazdoors prepared by the Telecom District Manager, Amravati dated 14.08.1990, basing on Ext. W-III, the workman is entitled for reinstatement in service with seniority and regularization as per his juniors, who have admittedly been regularized by the Party No. 1. Hence, it is ordered:

ORDER

The action of the management in relation to Telecom District Engineer, Yavatmal under the erstwhile Department of Telecommunication and present Bharat

Sanchar Nigam Limited in terminating the services of Shri Nandraj Gopalrao Nagarale on 10.11.1988 is unjustified and illegal. The workman, Shri Nandraj Gopalrao Nagarale is entitled for reinstatement in service with seniority. However, the workman is not entitled for back wages. The Party No.1 is directed to reinstate the workman in service with seniority and to regularize his service as per his juniors, who have already been regularized, within a month from the date of publication of the award in the Official gazette.

J. P. CHAND, Presiding Officer

नई दिल्ली, 29 अगस्त, 2014

का.आ. 2414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिससेस एण्ड आर्थर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए/1194/ 2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/08/2014 को प्राप्त हुआ था।

[सं. एल-40012/441/2000-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 29th August, 2014

S.O. 2414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGITA/1194/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Supdt. of Post Offices & Other and their workman, which was received by the Central Government on 26/08/2014.

[No. L-40012/441/2000-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Binay Kumar Sinha,
Presiding Officer, CGIT cum Labour Court,
Ahmedabad, Dated 15th May, 2014

Reference : (CGITA) No-1194/2004

Reference : (I.T.C) No-06/2002(old)

Reference Order No. 40012/441/2000-IR(DU)

1. The Supdt. Of Post Offices,
Deptt.of Posts, Jamnagar Division,
JAMNAGAR-361001
2. The Sub Post Master,
Sub Post Offices, Near Bal Mandir,
Jam-Jodhpur, Jamnagar-360530First Party

AND

Their Workman

Shri Kamlesh Vishwanathan Bhatt,
Near Old Apsara, Jam-Jodhpur,
Jamanagar-360530Second Party

For the First Party : Shri Prakashchandra M. Rami,
Asst. Govt. Pleader

For the Second Party: Shri R.C. Pathak, Advocate

AWARD

The Government of India/Ministry of labour, New Delhi vide its order No.-L-40012/441/2000-IR (DU) dated 12.02.2002 referred the dispute for adjudication to Industrial Tribunal, Rajkot, in respect of the matters specified in the Schedule:

SCHEDULE

- “Whether the action of the management of Supdt. of Post offices, Jamnagar in terminating the services of Sh. Kamles Vishwanathan w.e.f. 01.03.1996 is just and legal? If not, to what relief the work is entitled?”
2. The case of the workman (2nd party) as per statement of claim (Ext.6) is that he was working on the post of E.D.A. since 1982. But his services were terminated by the 1st party by its letter dated 29.02.1996 w.e.f. 01.03.1996. He was working in various department of post as EDA till 1989. The 1st party gave break in his work. Again he was appointed as Night Guard w.e.f. 29.01.1992 and his duty period was from 8 a.m. to 8 p.m. He was paid about Rs.920/- He was thereafter arbitrary terminated by the 1st party whereas there was no complain against his work. The 1st party has violated the provision of section 25F of the I.D. Act by not giving retrenchment notice or notice pay in lieu of notice and retrenchment compensation. Juniors were continuing and new employees were engaged for doing duties which were being performed by him (2nd party) workman and thus 1st party have also violated the provision of section 25G and 25H of the I.D. Act. In spite of repeated request to the 1st party they did not consider to keep him (workman) for work. Further case is that he completed about three years of continuous service as night Guard each year he completed more than 240 days. He is unemployed since after his termination. On these grounds prayer is made to declare his oral termination illegal and to reinstate him to work with full back wages and cost.
 3. As against this the case of the 1st party inter alia as per written statement (Ext.7) is that the claim of

workman is false, frivolous and against the provision of law and is fit to be dismissed. The averment of para-1 of S/c is baseless and far away from the truth. Shri Kamlesh Bhatt had never been selected as ED employee on regular base rather he had worked as substitute ED employee in leave vacancy of different ED employee at different places for total 57 days only. He was allowed to work on contingent allowance paid post at Jam-jodhpur post office. Para 2 of S/c is denied Shri Bhatt was working on leave arrangement vice ED BPM Kotda Bavisi branch P.O. during 01.05.1985 to 13.05.1985 and indulged in one saving Bank fraud case and his integrity was doubtful and so he was not allowed to work on substitute base. He never worked continuously for 240 days in any year or preceding 12 months. The Govt. has decided to dispense contingently paid Night Guard Post in view of saving to the government from very effect from 01.03.1996 Shri Bhatt was never appointed on regular base. The 1st party department has neither appointed any contingent paid night guard after removing Shri Bhatt from his service. He is not entitled to get notice pay or retrenchment compensation according to law. Shri Bhatt moved to the CAT at Ahmedabad and at the High Court of Gujarat by filing Civil Application No. 1576/2001 application has been rejected by the High Court and asked for adjudication under Industrial Dispute Act and so the 2nd party Shri Bhatt has raised dispute. The 1st party department has never breached provision of Section 25F, G & H of I.D. Act. The reference is not maintainable. On these scores, prayer is made to dismiss the reference.

4. In view of the rival contention in the pleadings, the following issues are taken for determination:

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the workman (2nd party) valid cause of action?
- (iii) Has Shri Kamlesh Vishwanathan Bhatt completed 240 days work in calendar year preceding his termination w.e.f.01.03.1996?
- (iv) Whether the action of the management of Supdt. of Post Offices, Jamnagar in terminating the services of Shri Kamlesh Bhatt is just and proper?
- (v) What relief Shri Bhatt is entitled to? What directions if any are necessary?

FINDINGS

5. **ISSUE NO. (iii):-** Both parties- second party (workman side) and the 1st party (management side) have adduced evidence in this case. The 2nd party has submitted 10 documents with list (Ext.10) on 05.04.2005. Ext.10/1 is papers showing (1) memo of application (2) copy of order dated 29.02.1996 submitted before CAT, Ahmedabad in OA No. 210/96. Present the 2nd party had filed O.A. No. 210/96 before CAT, Ahmedabad against Union of India through Chief Postmaster and others, challenging the order dated 29.02.1996 of sub

postmaster, Jam-Jodhpur addressed to Kamlesh Bhatt Night Guard. Written reply of respondent filed in O.A. No. 210/96 reiterating the stand that Shri Kamlesh Bhatt was working as substitute EDA employee in leave resultant vacancies of different ED. Employees total working period from 01.05.1983 to 19.05.1983-19 days, 22.06.1983 to 29.06.1983-08 days, 01.07.1983 to 01.07.1983- 01 days and 03.07.1983 to 31.07.1983-29 days total 57 days. The copy of rejoinder of 2nd party also filed in O.A. No. 210/96. Ext. 10/2 is original copy of application for leave of Extra-departmental Agents of one Gulaboha for the period of 29 days-01.02.1988 to 29.02.1988 giving the name of Kamlesh Bhatt as substitute. This does not go to show that Kamlesh was working as EDA. on regular base. Ext.10/3 is copy of order of CAT, Ahmedabad dated 12.08.1999 disposing of the O.A. 210/96 filed by Shri Kamlesh on the ground the CAT has no jurisdiction to entertain the matter and returning the application for presenting before appropriate forum. This does not help to the 2nd party. Ext.10/4 is copy of letter dated 14.12.1987 of Sr. Supdt. Of Post Offices, Jamnagar to Kamlesh to appear for interview on 30.12.1987 at 10a.m. with all original testimonials/certificates. Ext. 10/5 is true copy of certificate dated 19.09.1983 of Sub Post Master Jam-Jodhpur to the effect that Shri K.V. Bhatt has worked as a.p. man EDA and class iv in leave arrangement during 1982-83. This does not go to connect that the 2nd party was working as regularly appointed EDA rather go to show that he worked in leave arrangement. This Ext.10/5 is neither original nor Xerox copy rather it is true typed copy having attested by medical officer Govt. Dispensary, Jam-Jodhpur. This is secondary evidence and no explanation given by the 2nd party what happened with primary/original certificate. More so, Ext.10/5 does not go to show that Kamlesh worked for 240 days in the year 1982-83. Ext. 10/6 is carbon copy of letter dated 29.02.1996 of sub postmaster that as per Govt. of India instruction contingent paid night guard is not to be kept and informing him that he is not required from 01.03.1996. Ext. 10/7 is certificate of Sub Post master, JamJodhpur dated 25.05.1990 that Shri Kamlesh has worked for scattered period as substitute in leave vacancy of E.D.A. Postman. This does not also go to provide a right that he was working as regular staff EDA. Ext. 10/8 is letter dated 27.07.1994 of Sub Postmaster; Jam Jodhpur addressed to Kamlesh to S.P. Jamnagar putting his certain grievances which is not relevant in this case. Ext. 10/10 copy of application off Kamlesh Bhatt to Sub postmaster, Jam Jodhpur post office dated 02.08.1994 requesting to keep him in night guard and not to remove him. The 2nd party has filed the Xerox copy of order below Ext.5 in Regular Civil Suit (RCS) 365/89 in connection with application under order 39 rule 1 & 2 of C.P.C directing the postal authorities to proceed with the selection and

posting keeping the right of plaintiff/applicant Kamlesh Bhatt open subject to final disposal of suit. It appears from the written argument submitted on behalf of the 2nd party (Ext.38) that the Civil Suit was withdrawn by Kamlesh when he was engaged as contingent/night guard. So there remained no force of order passed below Ext.5 in Civil Suit nor this helped the 2nd party to prove his claim. Ext.11/1 is letter of intimation to suptd. of post office dated 15.04.2005 and Ext. 11/2 is also letter intimation to Suptd. of Post offices dated 14.07.2005.

6. On 21.07.2005 the 2nd party workman Shri Kamlesh disposed vide Ext.12 and his cross examination was deferred. Again workman filed fresh affidavit in lieu of examination in chief vide Ext.21 in view of order that he was not cross examined on his previous examination in chief (Ext.12). He was cross examined by Shri P.M. Rami, Advocate of the 1st party on 26.06.2011. In affidavit he claimed that he was engaged in the year 1982 and worked upto 29.02.1996 continuously and completed 240 days work in every calendar year. His such evidence that he worked continuously from 1982 to 29.02.1996 is beyond pleading as per statement of claim. In statement of claim (Ext.6) vide para-1 he says that he was continued in various department of post as EDA till 1989 and the 1st party gave him break that means he was terminated. Thereafter he was engaged/appointed as night guard on 29.01.1992. So it's crystal clear that the workman Kamlesh had not worked either as substitute EDA in the year 1990 and 1991 and did not work on any day. Thus his claim as per affidavit (Ext.21) or earlier deposition in chief (Ext.12) that he continuously worked a EDA. and then as night guard from 1982 to 29.02.1996 is belied and such stand falls to the ground as to continuity of service and completing 240 days work in every calendar year. The 2nd party has also failed to discharge the initial onus that he had completed 240 days work in calendar year when he was appointed as contingent night guard. On the other hand the contents of documents as per Ext.10/1 in connection with O.A case No. 210/96 particularly written reply of respondent Post Office go to show that Kamlesh over all worked as substitute EDA employee in leave resultant vacancies from the period 01.05.1983 to 31.07.1983. Ext. 34 is a list as to filing of two documents on behalf of the 2nd party. Ext.34/1 is Xerox copy of order of the High Court of Gujarat passed in S.C.A. 1576/01 dated 26.12.2001 whereby and where under the impugned order dated 20.1.2000 of appropriate Government rejecting to make reference was set aside and the Government directed to reconsider the matter. In the reference order there is mention as to direction of High Court of Gujarat in S.C.A. Ext. 34/1 has nothing to do with proof/non-proof of the 2nd party case. Ext. 34/2 is statement as to work by Kamlesh Bhatt as substitute class iv staff and postman from 25.10.1982 to 06.06.1985 in different period containing signature and seal of

substitute it is clear that Shri Kamlesh Bhatt never worked for 240 days either in the year 1982 or in the year 1983 or in the year 1984 or in the year 1985. So Ext. 34/2 rather disprove the claim of workman Shri Kamlesh that he continuously and uninterruptedly worked as class iv or postman in substitute before he was giving break in the year 1989 by the 1st party.

7. On behalf of the 1st party Shri Satyawadi Vishwal Suptd. of Post offices, Jamnagar deposed in oral evidence vide Ext.32 that Kamlesh was never appointed as EDA by our Dept. Rather he was working as substitute (Badlee) worker whenever regular staff of post office went on leave and he was getting wages after deducting from the salary of staff who went on leave. He was getting wage for the period of work as substitute. Kamlesh was not given any appointment letter and he worked for the total period of 57 days as substitute. He was not appointed either temporary or regular in postal Dept. Vide para 4 he deposed that Kamlesh had given application for keeping him as Extra Departmental Employee (EDE) but he was not selected since he was working from before as substitute. He further deposed that as per interim direction of Civil Court Kamlesh was kept as part time night guard contingently paid and that his duty as contingent paid night guard was stopped from 01.03.1996 and there remained no need for his keeping in night guard. Vide para-8 he says Kamlesh was paid from contingent fund/ allowance through vouchers. Vide para-9 he denied that at Kotda Bavisai Postal branch Kamlesh was working as EDA. Vide Para-11 during cross examination it has come that the post of night guard in post office has been abolished w.e.f. 01.03.1996 as per government direction. The 2nd party has not challenged by giving any suggestion that post of night guard has not been abolished by the Government. It was suggested to the 1st party witness in the last sentence of para-11 that one Dev Morani was working in substitute and has been appointed in EDA to which witness has denied. The 2nd party has failed to submit any iota of relevant paper/documentary evidence that DevMorani a substitute was kept as EDA. in order to show any discriminating attitude of the management of the 1st party.

8. Both sides have submitted written argument in support of respective case. Ext. 36 is written argument of the 1st party whereas Ext.38 is written argument of the 2nd party. The 2nd party on the basis of written argument could not have been able to prove that the workman Kamlesh completed 240 days work in every calendar year or in the calendar year preceding termination of Kamlesh with effect from 01.03.1996. On the other hand, the 1st party has justified its case as per written argument.

9. Thus as per discussions and consideration made above, I am of the considered view and therefore find and hold that the 2nd party Shri Kamlesh Bhatt never

completed 240 days work in calendar year and also in the calendar year preceding his termination w.e.f. 01.03.1996. So, Issue No.(iii) is answered in negative.

10. **ISSUE NO.(iv):-** In view of the findings to issue No. (iii) in the foregoing, I further find and hold that the 1st party has not contravened the provision of section 25F of the I.D. Act or Section 25G or H of the I.D. Act and so the action of the management of Suptd. of Post Offices, Jmanagar in terminating the services of Shri Kamlesh Bhatt as night guard is just and proper. So this issue is answered in affirmative.

11. **ISSUE NO. (i) & (ii) :-** The reference is not maintainable and the 2nd party Shri Kamlesh Bhatt has no valid cause of action in this case.

12. **ISSUE NO. (v):-** In view of the findings to issue no. (i), (ii), (iii) & (iv) in the foregoing paras, I further find and hold that the 2nd party Shri Kamlesh Vishwananthan Bhatt is not entitled to the relief of reinstatement with back wages or alternative relief of compensation from the 1st party. So there is no need to give any direction to the 1st party. This issue is decided against the 2nd party.

Accordingly the reference is dismissed. No order of any cost.

Let two copies of the award be sent to the appropriate Government for publication u/s. 17 of the I.D. Act.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2415.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चांसलर, इग्नो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 32/10) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/87/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2415.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 32/10) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014

[No. L-42012/87/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKARDOOMA COURT COMPLEX, DELHI

Present : Shri Harbansh Kumar Saxena

ID No. 32/10

Smt. Mukesh,
W/o Shri. Inderjit Singh,
H. No. 157, Near Shiv Mandir,
Maidan Garhi, New Delhi

Versus

The Vice Chancellor,
IGNOU, Maidan Garhi,
New Delhi-110092

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-42012/87/2010-(IR(DU)) dated 23.09.2010 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU in terminating the services of Smt. Mukesh W/o Shri Inderjit Singh w.e.f 01.11.2007 is legal and justified? If not, what relief the workman is entitled to?

On 15.10.2010 reference was received in this tribunal. Which was register as ID No. 32/10 and claimant was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement/Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 11/08/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2416.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर अलगप्पा टेक्सटाइल्स, थ्रिस्सूर (टी इन) के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय एर्णाकुलम के पंचाट (संदर्भ संख्या 15/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42011/11/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2416.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 15/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Alagappa Textiles, Thrissur (TN) and their workmen, which was received by the Central Government on 29/08/2014.

[No. L-42011/11/2014-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri D.Sreevallabhan, B.Sc., LL.B,
Presiding Officer

(Thursday the 31st day of July, 2014/9th Shravana, 1936)

ID 15/2014

Union : The Secretary Textiles Workers Union
Alagappa Nagar, Amballur Kerala

Management : The General Manager Alagappa
Textiles Thrissur (TN)

By Adv. Shri P Ramakrishnan

This case coming up for final hearing on 31.07.2014 and this Tribunal-cum-Labour Court on the same day passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour vide its Order No-L-42011/11/2014-IR(DU) dated 10/12.03.2014 referred the industrial dispute for adjudication to this tribunal.

2. The dispute is:

‘Whether the action of the management of M/s. Alagappa Mills in terminating the services of Shri U L Jose is correct? If not, what relief he is eligible to get?’

3. After receipt of the reference in this Tribunal summons was issued to both parties. After acceptance of the summons management entered appearance. In spite of several adjournments union did not appear and file any claim statement. Hence the union was set ex-parte.

4. Management filed affidavit with the averments that it was because of the chronic absenteeism of the workman he was terminated from service w.e.f.06.03.2013 by

invoking the provisions under Order No.17(F) of the Mill Standing Orders after conducting a domestic enquiry with due compliance of the principles of natural justice and hence an award can be passed holding that the termination of the services of the workman is just and proper and he is not entitled to any relief.

5. As the union has failed to appear and participate in the proceedings an award can be passed holding that the termination of the services of the workman is correct and hence he is not entitled to any relief.

6. In the result an award is passed holding that the action of the management of M/s. Alagappa Mills in terminating the services of the workman is correct and hence he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 31st day of July, 2014.

D. SREEVALLABHAN, Presiding Officer

APPENDIX-NIL

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2417.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल वेयरहाउसिंग कारपोरेशन, चंडीगढ़ रीजन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255 एण्ड 256/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/111-126/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255 & 256/2013) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Warehousing Corporation, Chandigarh Region and their workmen, which was received by the Central Government on 29/08/2014.

[No. L-42012/111-126/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 241 of 2013,**

Reference No. L-42012/111/2013/IR(DU) dated 3.3.2014

Sh. Sanjay Yadav
S/o Sh. Baleshar
R/o Birbal Nagar,
Narwana, Jind (Haryana)

.....Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector -4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/111/2013/IR(DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Sanjay Yadav S/o Sh. Baleshar workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014**ANNEXURE****BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 242 of 2013**

Reference No. L-42012/112/2013/IR(DU) dated 3.3.2014

Sh. Jadoo S/o Sh. Munshi
R/o Gandhi Nagar,
Narwana, Jind
(Haryana)

.....Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector -4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on:- 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/112/2013/IR(DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Jadoo son of shri Munshi workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 243 of 2013**

Reference No. L-42012/113/2013/IR(DU) dated 3.3.2014

Sh. Manoj son of Shri Kalar Singh
R/o Birbal Nagar,
Narwana, Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/113/2013/IR(DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Manoj son of Shri Kalar Singh workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.
3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 244 of 2013**

Reference No. L-42012/114/2013/IR(DU) dated 3.3.2014

Sh. Mithoon son of Shri Subodh
R/o Gandhi Nagar,
Narwana, Jind (Haryana).Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/114/2013/IR(DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Mithoon son of Shri Subodh workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.
3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 245 of 2013**

Reference No. L-42012/115/2013/IR(DU) dated 3.3.2014

Sh. Toofan
Son of shri Madav Singh
R/o Birbal Nagar,
Narwana, Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/115/2013/IR(DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Toofan Son of shri Madav Singh workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.
3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 246 of 2013**

Reference No. L-42012/116/2013/IR(DU) dated 3.3.2014

Sh. Ankleshwar son of Dev Sharma
R/o Gandhi Nagar, Narwana,
Jind (Haryana).Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/116/2013/IR(DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Ankleshwar son of Dev Sharma workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.
3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 247 of 2013**

Reference No. L-42012/117/2013/IR(DU) dated 3.3.2014

Sh. Janardan son of Shri Brahm Dev
R/o Birbal Nagar, Narwana,
Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/117/2013/IR (DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication :

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Janardan son of Shri Brahm Dev workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.
3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 248 of 2013**

Reference No. L-42012/118/2013/IR(DU) dated 3.3.2014

Sh. Ranjit Son of Parshu Ram
R/o Gandhi Nagar, Narwana,
Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/118/2013/IR (DU) dated 3.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Ranjit Son of Parshu Ram workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.
3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 249 of 2013**

Reference No. L-42012/119/2013-IR(DU) dated 5.3.2014

Sh. Jai Ram
Son of Dhar Singh
R/o Gandhi Nagar, Narwana,
Jind (Haryana).Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112 Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide Notification No.L-42012/119/2013-IR(DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Jai Ram son of Dhar Singh workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 250 of 2013**

Reference No. L-42012/120/2013-IR(DU) dated 5.3.2014

Sh. Sanjivan
Son of Shri Ram Dulare
R/o Gandhi Nagar, Narwana,
Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide Notification No.L-42012/120/2013-IR (DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Sanjivan Son of Shri Ram Dulare workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 251 of 2013**

Reference No. L-42012/121/2013-IR(DU) dated 5.3.2014

Sh. Chhote Lal
 Son of Shri Nirdhan
 R/o Gandhi Nagar, Narwana,
 Jind (Haryana)Workman

Versus

1. The Regional Manager,
 Central Warehousing Corporation,
 Chandigarh Region,
 Bay No. 35-38, Sector-4,
 Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide Notification No.L-42012/121/2013-IR (DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Chhote Lal Son of Shri Nirdhan workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
 26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 252 of 2013**

Reference No. L-42012/122/2013-IR(DU) dated 5.3.2014

Sh. Shree Ram
 Son of Shri Uchit Paswan
 R/o Gandhi Nagar, Narwana,
 Jind (Haryana)Workman

Versus

1. The Regional Manager,
 Central Warehousing Corporation,
 Chandigarh Region,
 Bay No. 35-38, Sector-4,
 Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide Notification No.L-42012/122/2013-IR (DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Shree Ram Son of Shri Uchit Paswan workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
 26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 253 of 2013**

Reference No. L-42012/123/2013-IR(DU) dated 5.3.2014

Sh. Upender
Son of Shri Suraj Singh
R/o Birbal Nagar, Narwana,
Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/123/2013-IR (DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Shree Ram Son of Shri Uchit Paswan workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 254 of 2013**

Reference No. L-42012/124/2013-IR(DU) dated 5.3.2014

Sh. Arvind
Son of Shri Suresh Ram
R/o Gandhi Nagar, Narwana,
Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide notification No.L-42012/124/2013-IR (DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Arvind Son of Shri Suresh Ram workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to ?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 255 of 2013**

Reference No. L-42012/125/2013-IR(DU) dated 5.3.2014

Sh. Somnath
Son of Shri Roshan,
Vill. & P.O: Balerkha,
Teh. Narwana, Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide Notification No.L-42012/125/2013-IR (DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Som Nath Son of Shri Roshan workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

ANNEXURE**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH****Case No. ID No. 256 of 2013**

Reference No. L-42012/126/2013-IR(DU) dated 5.3.2014

Sh. Vijay
Son of Shri Jai Parkash,
Vill.& P.O. : Balerkha, Teh. Narwana,
Jind (Haryana)Workman

Versus

1. The Regional Manager,
Central Warehousing Corporation,
Chandigarh Region,
Bay No. 35-38, Sector-4,
Panchkula (Haryana)-134112Respondent

Appearances :

For the Workman : None.

For the Management : Shri N. K. Zakhmi

AWARD

Passed on : 26.08.2014

Government of India Ministry of Labour vide Notification No.L-42012/126/2013-IR (DU) dated 5.3.2014 has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the Management of Regional Manager, CWC, Panchkula in terminating the services of Sh. Vijay Son of Shri Jai Parkash workman of Narwana Depot is just and legal? If not, to what relief the workman is entitled to?”

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already three opportunities have been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

S. P. SINGH, Presiding Officer

Chandigarh
26-08-2014

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार साइंटिस्ट्स इंचार्ज, सीमैप पंत नगर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 10/13) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42011/38/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 10/13) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Scientists Incharge, CIMAP, Pant Nagar and their workman, which was received by the Central Government on 29/08/2014.

[No. L-42011/38/2011-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

Present : Shri HARBANSH KUMAR SAXENA,
Presiding Officer

ID No. 10/13

Sh. Jagdish Kashyap & Others
The Tarai Mazdoor & Uthan Samiti,
941, Sector, Pant Nagar,

Versus

The Scientists Incharge, CIMAP,
Field Section Pant Nagar, Nagala Distt.,
Udham Singh Nagar (UK)
Udham Singh Nagar

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No. L-42011/38/2011-IR(DU) dated 12.02.2013 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of CIMAP of not fulfilling statutory obligation of 48 contractor workers (list enclosed) under Payment of Bonus Act on contractors failure to pay bonus for the year 2006-2007 is illegal and unjustified? If so what relief the workmen are entitled to ?”

On 28.02.2013 reference was received in this tribunal. Which was register as I.D No. 10/2013 and claimants were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workmen as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the party can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 26.08.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2419.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, ऑप्टो इलेक्ट्रॉनिक्स फैक्ट्री, देहरादून के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 91/13) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-14011/04/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2419.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 91/13) of the Central Government Industrial Tribunal Cum Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Opto electronics Factory, Dehradun and their workman, which was received by the Central Government on 29/08/2014

[No. L-14011/04/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKARDOOMA, DELHI-110032

Present : Shri HARBANSH KUMAR SAXENA,
Presiding Officer

ID No. 91/13

General Manager,
Opto Electronics Factory, Raipur Road, Dehradun.

Versus

General Secretary,
All India Central Govt. Employees Association,
F-48, Lado Sarai, New Delhi -110030

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No. L-14011/04/2013-IR(DU) dated 10.07.2013 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of Bharat Electronics Ltd. Kotdwar Unit in non payment of Plant Performance incentive for the year 2011-12 for the non executive employees of Kotdwar Unit is unjustified? What relief the workmen are entitled to?

On 23.07.2013 reference was received in this tribunal. Which was register as I.D No. 91/2013 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the party can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 26.08.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2420.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चांसलर, इग्नो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 24/11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/153/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2420.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 24/11) of the Central Government Industrial Tribunal-cum-

Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014

[No. L-42012/153/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, DELHI**

Present : Shri HARBANSH KUMAR SAXENA,
Presiding Officer

ID No. 24/11

Sh. Radhey Shyam
R/o 137, Balmiki Basti,
Maidan Garhi, New Delhi

Versus

The Vice Chancellor,
IGNOU, Maidan Garhi,
New Delhi-110092

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No. L-42012/153/2010-(IR(DU)) dated 10.03.2011 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU in terminating the services of Sh. Radhey Shyam S/o Sh. Ram Saran w.e.f 01.11.2007 is just fair and legal? If not, to what relief the workman concerned is entitled to and from which date?

On 31.03.2011 reference was received in this tribunal. Which was register as I.D No. 24/11 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the party can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 11.08.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2421.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार येचेंबी गरवाल सेंट्रल यूनिवर्सिटी, श्री नगर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 95/11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42011/48/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2421.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 95/11) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the HNB Garhwal Central University, Sri Nagar and their workman, which was received by the Central Government on 29/08/2014

[No. L-42011/48/2011-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKARDOOMA, COURT COMPLEX, DELHI

Present : Shri HARBANSH KUMAR SAXENA,
Presiding Officer

ID No. 95/11

Sh. Vinod Singh,
S/o Ranjit Singh Negi
Village—Chaplodi, PO Chaplodi, Distt, Pauri,
Garhwal (UK)

Versus

HNB Garhwal Central University,
Sri Nagar, Garhwal (UK)

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-42011/48/2011-IR(DU) dated 10.10.2011 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of HNB Garhwal Central University, in terminating the services of workman Sh. Vinod Singh, S/o Ranjit Singh Negi w.e.f. 11.10.2001, without complying with Sections 25 F, G & H is legal and justified ? What relief the workman is entitled to ?”

On 11.11.11 reference was received in this tribunal. Which was register as I.D No. 95/11 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant Sh. Vinod Singh not filed claim statement but management in response to reference filed response wherein it mentioned as follows:-

1. That the deponent is the duly authorized person on behalf of the respondent/management in the present case as such he is well acquainted with the facts deposed to below. Authority letter of Register HND Garhwal University is marked and Annexed as Annexure No. R1.
2. That the claimant has failed to file any statement of claim till date and on account of that only the present reference before the Ld. Tribunal is liable to be dismissed.
3. That for the convenience of the Ld. Court certain facts with regard to the contractual employees in the university are being brought on record as under:
 - (i) That the University was a state university upto 14 Jan., 2009 and was ungraded as a Central University under the Central Universities Act, 2009 w.e.f. 15.01.2009.
 - (ii) That it is submitted that at the time of said up gradation of the university there were 171 contractual/daily wager employees, engaged by the Head of the Department/Project Incharge/Section's Heads of the university which are not the appointing authority nor any order of engagement /said appointments was ever issued by the university to the said daily wager/contractual employees. In the said list the name of the claimant was not available. These petitioners were not engaged by the University.
 - (iii) That during the tenure of the State University some of the departments may have engaged daily wages without the approval of the vice-chancellor, the competent authority hence illegal and void ab initio.
 - (iv) That it is submitted the said daily wager contractual labours may have been engaged for a period of one to three months showing some urgency of the section without following any provisions of law and with a view to provide a back door entry in the university.
 - (v) That it is also worth mentioning here neither any permission or approval was ever obtained

from the university for such illegal engagement nor the said engagement was ever extended with permission or approval of the university but it seems that under some connivance with the officers of the university this category of employees were illegally provided the wages without any permission or approval from the university.

4. That under these circumstances it is expedient in the interest of justice that the Hon'ble Court may kindly dismiss the reference petition with costs.

I, The deponent named above do hereby solemnly affirm and state on oath and verify that the contents of Paragraph No. 1 of the response are true to my own knowledge and those of Paragraphs Nos. 2,3 of the application are based on perusal of records those of paragraphs No. 4 of the application are based on legal advice which also the deponent believe to be true that nothing material has been concealed and that no part of this affidavit is false.

On the basis of non-interestedness of workman. The proceeding of this case is not liable to be proceeded further. Hence proceedings of the case are liable to be dropped and no dispute award is liable to be passed. Which is liable to be passed.

No Dispute Award is accordingly passed.

Dated : 14.08.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2422.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चांसलर, इग्नू के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 दिल्ली के पंचाट (संदर्भ संख्या 25/11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/154/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2422.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 25/11) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014.

[No. L-42012/154/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

Present : Shri HARBANSH KUMAR SAXENA,
Presiding Officer

ID No. 25/11

Smt. Vimlesh

R/o J-II 177, Madanagiri,
New Delhi

Versus

The Vice Chancellor,
IGNOU, Maidan Garhi,
New Delhi-110092

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-42012/154/2010-IR(DU) dated 11.03.2011 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU in terminating the services of Smt. Vimlesh W/o Shri Kali Charan w.e.f . 01.11.2007 is just fair and legal? If not, to what relief the workman concerned is entitled to and from which date?”

On 31.03.2011 reference was received in this tribunal. Which was register as I.D. No. 25/11 and claimant was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement/Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the party can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2423.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चांसलर, इग्नू के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 दिल्ली के पंचाट (संदर्भ संख्या 26/11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/155/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2423.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 26/11) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014

[No. L-42012/155/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, KARKARDOOMA, COURT
COMPLEX, DELHI**

Present : Shri Harbansh Kumar Saxena

ID No. 26/11

Smt. Kela

R/o A-45, Harijan Basti
Neb Sarai, New Delhi

Versus

The Vice Chancellor,
IGNOU, Maidan Garhi,
New Delhi-110092

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No. L-42012/155/2010-IR(DU) dated 10.03.2011 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU in terminating the services of Smt. Kela W/o Shri Babu Lal w.e.f. 01.11.2007 is just fair and legal? If not, to what relief the workman concerned is entitled to and from which date?”

On 31.03.2011 reference was received in this tribunal. Which was register as I.D No. 26/11 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 11.08.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2424.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चांसलर, इग्नो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 28/10) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/80/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 28/10) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014

[No. L-42012/80/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, KARKARDOOMA, COURT
COMPLEX, DELHI**

Present : Shri Harbansh Kumar Saxena

ID No. 28/10

Sh. Sunil Kumar, S/o Sh. Jagdish
House No. 123, Balmik Basti, Maidan Garhi,
New Delhi-110068

Versus

The Vice Chancellor,
IGNOU, Maidan Garhi,
New Delhi-110092

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No. L-42012/80/2010-IR(DU) dated 18.08.2010 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU, in terminating the services of Sh. Sunil kumar w.e.f 01.11.2007 is just fair and legal? If not, what relief the workman is entitled to?”

On 01.09.2010 reference was received in this tribunal. Which was register as I.D No. 28/10 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 11.8.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2425.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चांसलर, इग्नो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 दिल्ली के पंचाट (संदर्भ संख्या 31/10) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/105/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 31/10) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014

[No. L-42012/105/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKARDOOMA, COURT COMPLEX, DELHI

Present : Shri Harbansh Kumar Saxena

ID No. 31/2010

Sh. Amit, S/o Sh. Naresh
H. No. 125, Balmik Basti,
Maidan Garhi, New Delhi-110068

Versus

The Vice Chancellor,
Indira Gandhi National Open University,
R. No. 1, Block No. 8,
Maidan Garhi.

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-42012/105/2010-IR(DU) dated 23.09.2010 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU, in terminating the services of their workman Sh. Amit S/o Sh. Naresh w.e.f. 01.11.2007 is legal and justified? If not, what relief the workman is entitled to ?”

On 15.10.2010 reference was received in this tribunal. Which was register as I.D No. 31/2010 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 26.8.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2426.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चांसलर, इग्नो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 दिल्ली के पंचाट (संदर्भ संख्या 32/10) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/153/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2426.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 32/10) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014

[No. L-42012/153/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, KARKARDOOMA, COURT
COMPLEX, DELHI****Present : Shri HARBANSH KUMAR SAXENA****ID No. 32/10**Smt. Mukesh,
W/o Shri. Inderjit Singh,
H. No. 157, Near Shiv Mandir,
Maidan Garhi, New Delhi**Versus**The Vice Chancellor,
IGNOU, Maidan Garhi,
New Delhi-110068**NO DISPUTE AWARD**

The Central Government in the Ministry of Labour vide notification No L-42012/153/2010-(IR(DU)) dated 23.09.2010 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU in terminating the services of Smt. Mukesh W/o Shri Inderjit Singh w.e.f 01.11.2007 is legal and justified? If not, what relief the workman is entitled to?

On 15.10.2010 reference was received in this tribunal. Which was register as I.D No. 32/10 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 11.8.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2427.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वाईस चान्सलर, इग्नो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2 दिल्ली के पंचाट (संदर्भ संख्या 34/10) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/106/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2427.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 34/10) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vice Chancellor, IGNOU and their workman, which was received by the Central Government on 29/08/2014

[No. L-42012/106/2010-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-II, KARKARDOOMA, COURT
COMPLEX, DELHI****Present : Shri HARBANSH KUMAR SAXENA****ID No. 34/2010**Smt. Maya,
W/o Sh. Naresh.
H. No. 125, Balmik Basti,
Maidan Garhi, New Delhi-110068**Versus**The Vice Chancellor,
Indira Gandhi National Open University,
R. No. 1, Block No. 8,
Maidan Garhi.**NO DISPUTE AWARD**

The Central Government in the Ministry of Labour vide notification No L-42012/106/2010-IR(DU) dated 23.09.2010 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of IGNOU, in terminating the services of their workman Smt. Maya W/o Sh. Naresh w.e.f. 01.11.2007 is legal and justified? If not, what relief the workman is entitled to ?”

On 15.10.2010 reference was received in this tribunal. Which was register as I.D No. 34/2010 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parte can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated : 26/08/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 1 सितम्बर, 2014

का.आ. 2428.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमिश्नर एमसीडी दिल्ली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 18/12) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42011/15/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 1st September, 2014

S.O. 2428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 18/12) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commissioner, MCD, Delhi and their workman, which was received by the Central Government on 29/08/2014.

[No. L-42011/15/2011-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKARDOOMA COURT COMPLEX, DELHI

Present : Shri Harbansh Kumar Saxena

ID No. 18/2012

Smt. Sha, W/o Late Sh. Suraj Bhan,
C/o Nagar Karamchari Sangh, Delhi Pradesh

Versus

The Commissioner, MCD, Town Hall,
Chandni Chowk

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-42011/15/2011-IR(DU) dated 29.12.2013 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of Municipal Corporation of Delhi, in denying the regular appointment on compassionate grounds to Smt. Asha W/o Late Suraj Bhan w.e.f. 01.03.1994 is legal and justified? If not, what relief the workman is entitled to ?”

On 10.01.2012 reference was received in this tribunal. Which was register as I.D No. 18/12 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant Smt. Asha not filed claim statement but management in response to reference filed response wherein it mentioned as follows:-

1. That the present dispute is not an Industrial Dispute, as it is not espoused by any management's recognized union therefore reference is bad in law and as such the claim of the claimant is liable to be rejected.
2. That no demand notice has been served upon the management and as such the present dispute is not an industrial dispute and therefore reference is bad in law and liable to be rejected.
3. that the reference has been made Mechanically without due application of mind and as such the present dispute is bad in law and the claim is liable to be rejected.
4. That the Hon'ble Supreme Court of India has already held that the cases for appointment on compassionate ground cannot be entertained by the Industrial Tribunal as the applicant who claim for appointment on compassionate ground are not covered under the definition of "workmen" as given in Section 2(s) of the Industrial Disputes Act and as such, they have no right to claim the appointment on compassionate ground by raising as Industrial Dispute. In view of the same, the claim is liable to be dismissed.
5. That even otherwise, the present dispute is contrary to the rules and regulations of the Govt. of India framed in respect of appointment on compassionate ground. It is submitted that as per the rules and regulations laid down by the Govt. of India for the appointment on compassionate ground, there is only a very limited quota of 5% and there is a huge back log waiting for such appointments. It is submitted that as per the said Govt. of India rules and regulations meant for the purpose of appointment on compassionate ground, no Govt. organization can make appointments on compassionate ground beyond the fixed quota of 5%. Hence, the Hon'ble Tribunal has no jurisdiction to direct the management to make appointment on compassionate ground in contrary to the Govt. of India rules. It is submitted that the appointment on the compassionate ground cannot be claimed as a matter of right. It is submitted that as per the aforesaid Govt. of India Instructions, the appointment on compassionate ground is to be given to one of the condition that the said family should be in distress. It is submitted that for filing up the 5% quota, the management has to examine and screen out the most deserving cases.

The present claim is no claim and has been filed with malafide intentions.

6. That as the claimant was not covered under 5% quota for appointment on compassionate ground, the claimant was engaged as daily wager on Humanitarian Ground w.e.f 01.03.1994 as per policy of the DEMS Head Quarter for the post of Safai Karamcharies. It is submitted that the claimant has been regularized as per Phase Manner Regularization Policy of the management vide office order no. 1766/DC /CSE /01/III dated 26.06.2006, copy of which annexed herewith as Annexure A. Before regularization of the claimant, the management has given offer letter bearing no. 1330/DC/CSC/DA-III dated 15.06.2006 to the claimant, regarding her regularization on certain terms and conditions. Copy of the offer letter dated 15.06.2006 is annexed herewith as Annexure B. The claimant has accepted the terms and conditions of the offer letter and thereafter she was regularized on the post of Safai Karamchari . The relevant pages of Service Book of the claimant are annexed herewith as Annexure C.

7. That the claimant is not entitled for any relief from this Hon'ble Court and the claim of the claimant is false, frivolous & baseless and the same is liable to be dismissed.

It is, therefore, most respectfully prayed that the reference may kindly be answered in favour of the management and against the claimant.

On the basis of non-interestedness of workman. The proceeding of this case is not liable to be proceeded further. Hence proceedings of the case are liable to be dropped and no disput award is liable to be passed.

No Dispute Award is accordingly passed.

Dated : 22.8.2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2014

का.आ. 2429.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गार्डन रीच शिपबिल्डर्स एण्ड एनगिनीर्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 23/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 02/09/2014 को प्राप्त हुआ था।

[सं. एल-14011/12/2005-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 3rd September, 2014

S.O. 2429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23 of 2006) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers

in relation to the management of the Garden Reach Shipbuilders & Engineers Ltd. and their workman, which was received by the Central Government on 02/09/2014.

[No. L-14011/12/2005-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 23 of 2006

Parties : Employers in relation to the management of Garden Reach Shipbuilders & Engineers Ltd.

AND

Their workmen.

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : Mr. Dipak Kumar Ghosh,
Management : Ld. Advocate with Mr. Ranjay De,
Ld. Advocate.

On behalf of the : None
Workmen

State : West Bengal

Industry : Shipbuilding.

Dated: 25th August, 2014

AWARD

By Order No.L-14011/12/2005-IR(DU) dated 22.05.2006 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. Garden Reach Shipbuilders & Engineers Ltd. in dismissing the Security Watcher T. No. SW 42 Shri Durjadhan Sarkar w.e.f. 30.09.1991 is legal and justified? If not, whether the ex-workman is entitled for reinstatement with back wages or not? If not, to what relief he is entitled?”

2. When the case is taken up today for hearing, none appears on behalf of the workman though the management is represented by its Ld. Counsel. It appears from the record that the substituted workman is absent for the last two consecutive dates i.e. on 05.06.2014 and 26.06.2014. Considering the above facts and circumstances it may be presumed that the substituted workman does not want to proceed with the case further.

3. In view of the above, instant reference is disposed of by passing a “No Dispute Award”.

Dated : Kolkata, the 25th August, 2014

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2014

का.आ. 2430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सब डिविजनल ऑफिसर, दूर संचार पिलिभीत के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 86/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-40012/29/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 3rd September, 2014

S.O. 2430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 86/2001) of the Central Government Industrial Tribunal Cum Labour Court Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Sub-Divisional Officer, Door Sanchar, Philibhit and their workman, which was received by the Central Government on 29/08/2014.

[No. L-40012/29/2001-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : Dr. MANJU NIGAM, Presiding Officer

I.D. No. 86/2001

Ref. No. L-40012/29/2001-IR(DU) Dated : 27.04.2001

BETWEEN

Sh. Ashok Kumar S/o Nanku Chand Saxena
H. No. 132, Bhooth Kanoon Goyan
Bareilly (U.P.) 243 001.

AND

The Sub Divisional Officer
Door Sanchar,
Distt. Pilibhit (UP)

AWARD

1. By order No. L-40012/29/2001-IR(DU) dated: 27.04.2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Ashok Kumar S/o Nanku Chand Saxena, H.No. 132, Bhooth Kanoon Goyan, Bareilly (U.P.) and the Sub Divisional

Officer, Door Sanchar, Distt. Pilibhit (UP) for adjudication to this CGIT-cum-Labour Court, Lucknow.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF TELECOM DEPTT. PILIBHIT IN TERMINATING THE SERVICES OF SH. ASHOK KUMAR, PEON W.E.F. 7.10.97 IS LEGAL AND JUSTIFIED? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

3. The case of the workman, Ashok Kumar, in brief is that he was duly selected and appointed/engaged on 01.08.1996 as Peon on daily wage basis for an indefinite period till attaining the age of superannuation; and was paid salary/wages @ Rs. 40/- per day by ACG-17 voucher. It is alleged by the workman that although his appointment was on regular basis, yet no appointment order was issued to him with intention to deprive him of legitimate benefits available to regular employees. It is stated that he continued to work as such till 07.10.1997 when he was not allowed to work without any rhyme or reason or any notice or notice pay in lieu thereof or any retrenchment compensation in violation to the provisions contained in Section 25 F of the Industrial Disputes Act, 1947. It has been alleged by the workman that though he worked from 01.04.97 to 05.04.1997 to but was made payment in the name of one Dilip Kumar S/o Ram Kumar. Accordingly, it has been prayed that his oral termination be declared illegal and he be reinstated with consequential benefits including full back wages.

4. The management of the Door Sanchar has filed its written statement; wherein it has denied the claim of the workman and has submitted that the workman had ever been appointed by the Department on any regular post, as such, there was no termination of his services at any point of time. The management has submitted that since there was no formal termination, therefore, there arises no question of violation of any of the provisions of the I.D. Act. The management has denied making payment to the workman in any form and he was neither appointed nor worked with the department at any point of time. Accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit.

5. The workman has filed rejoinder whereby he has only reiterated his averments already made in the statement of claim and has introduced nothing new.

6. The workman has filed photocopy of ACG-17 vouchers w.e.f. 01.08.96 to 07.10.97 and attendance register of on duty and off duty staff in support of its case. The workman has examined himself whereas the management examined Shri Nathhu Lal, SDO in support of their case.

7. The workman has filed photocopy of ACG-17 vouchers w.e.f. 01.08.96 to 07.10.97 and attendance

register of on duty and off duty staff showing working details with the Door Sanchar. The management has not filed any document in rebuttal.

8. I have given my thoughtful consideration to the rival pleadings of the parties and scanned entire evidence on record.

9. It is the case of the workman that he was duly selected and appointed as Peon by the opposite party; but was not given any appointment letter; and he worked with the opposite party continuously for the period 01.08.1996 to 06.10.1997 and he services were terminated orally w.e.f. 07.10.1997 without any notice or notice pay in lieu thereof in contravention of the provisions contained in the Section 25 F of the I.D. Act, 1947 instead of fact that he worked for more than 240 days in each calendar year. He has filed photocopy of ACG-17 vouchers w.e.f. 01.08.96 to 07.10.97 and attendance register of on duty and off duty staff to corroborate his contentions.

10. Per contra, the single pointed case of the management is that the workman was never selected or appointed against any regular post nor has ever worked with the department; therefore, there arise no question of making any payment or terminating his services or violation of any of the provision of the Act. It has also disputed the genuineness of the ACG-17 payment vouchers filed by the workman. In its evidence the management witness has stated that the ACG-17, filed by the workman are forged one, inasmuch as the format of the ACG-17 itself is forged as the same ought to have been printed on both sides but the ACG-17 filed by the workman is printed on one side only.

11. It is settled law that when the workman comes forward with the case that his services have been terminated without following provisions of the Section 25 F of the Act, then burden of proof heavily lies upon him to prove that he had worked for 240 days in the preceding twelve months from the alleged date of his termination. For this the workman has filed photocopy of ACG-17 vouchers w.e.f. 01.08.96 to 07.10.97, the genuineness of which has been disputed by the management. In this regard it is noteworthy that although the management has disputed the format of the ACG-17 vouchers filed by the workman but has not filed any format of the ACG-17 to corroborate its stand that actually the ACG-17 filed by the workman is forged one.

12. The management in order to check the workman has taken, the best recourse of denying the appointment/engagement of the workman in any format any point of time. It is worthwhile to point out that in the present case, the conciliation file before Assistant Labour Commissioner (Central) No. LKO-8(2-43)/2000 has been summoned by this Tribunal, which reveals that the management in its reply/written statement before the

Assistant Labour Commissioner (Central) vide para 01 has pleaded that the applicant had worked for very short periods as daily wager when there existed such work in the department for which he was paid daily wages as per rules of the department.

Hon'ble Gujarat High Court in Director, Fisheries Terminal Division vs. Bhakubhai Meghajibhai Chavda 2010 AIR SCW 542; has observed that for proving 240 days' continuous working, the workman would have difficulty in having access to all official documents, muster rolls etc., in connection with his service, therefore, the burden of proof shifts to the employer to prove that he did not complete 240 days of service in requisite period to constitute continuous service and further that the ACG-17 vouchers filed by the workman were forged by filing the actual format of ACG-17.

Therefore, in view of the law cited hereinabove and pleadings of the management before Assistant Labour Commissioner (Central) regarding working of the workman as daily wager and payment as per rules, it was expected from the management that it should have come forward with the details of payment through ACG-17 vouchers; but the management has opted to take entirely different recourse by denying the appointment/engagement of the workman altogether at any point of time, before this Tribunal. Moreover, it also disputed the genuineness of the ACG-17 filed by the workman. However, it was expected from the management to come forward with the clean hands by giving details of engagement of the workman on daily wage basis and payment made to him; but the management did not do so, leaving no option but to rely on the photocopy of the ACG-17 filed by the workman in support of his working/payment details.

13. In Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC) Hon'ble Apex Court came to the conclusion that in order to claim the benefits of provisions of Section 25 F of the Act, the burden is on the workman to prove by cogent evidence that he was actually in employment for 240 days in twelve months preceding the date of alleged termination; and where the workman failed to prove that he had been in employment with the employer for a period of 240 days uninterruptedly in a year preceding the date of termination, he is not entitled to the protection of Section 25 – F of the Industrial Disputes Act, 1947. It was held by the Hon'ble Supreme Court that the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of Section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

“The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment

or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under Section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination.”

The workman has pleaded that he worked with the management of Door Sanchar from 01.08.1996 to 06.10.1997 on daily wages @ Rs. 40/- per day and his services have been terminated orally w.e.f. 07.10.1997, therefore, in view of the case law cited hereinabove, the burden was on the workman to prove that he had actually worked for 240 days in twelve months preceding the date of termination i.e. between 05.10.1996 to 06.10.1997. The workman has filed photocopy of ACG-17 vouchers which goes to show that he worked for 337 day during 05.10.1996 to 06.10.1997 and received payment accordingly @ Rs. 40/- per day.

14. Thus, there is ample evidence to record this finding that the workman had actually worked for 337 days in preceding twelve months from the date of his alleged termination i.e. 07.10.1997; and oral termination of his services, without any notice or notice pay in lieu thereof was in violation of the Section 25 F of the I.D. Act.

15. Now, it is to be considered as to whether the workman is entitled for reinstatement. From the evidence produced by the workman it is not proved that his appointment was as a regular worker. Even the statement of workman himself as well management's pleadings before Assistant Labour Commissioner (Central) it is clear that he was engaged as on daily wages. Admittedly, the services of the workman were terminated orally on 07.10.1997. In *Haryana Roadways vs. Rudhan Singh* (2005) 5 SCC 591; 2005 SCC (L&S) 716 Hon'ble Apex Court while considering the question regarding award of back wages has observed:

“There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25 F of the Act, entire back wages should be awarded However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which required to be taken into consideration, is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calander year.”

16. In 2008 (119) FLR 877 *Deepak Ganpat Tari vs. N.E. Theater Pvt. Ltd.* Hon'ble Bombay High Court relying on the Hon'ble Apex Court's judgment in 2008 (117) FLR 1086 (SC) *A P V K Brahmandandam* 2008 (118) FLR 376 (SC) *Telephone DM vs. Keshab Deb* 2006

(111) FLR 1178 (SC) *JDA vs. Ram Sahai*, while awarding compensation of Rs. 1,50,000/- to the concerned workman considering his daily wages as Rs. 45/- in view of the fact that the workman had put in about 3 years of service, has observed as under:

“It is apparent that termination of services of a daily wagger does not amount to retrenchment and for violation of Section 25 F in such circumstances, the employee cannot be given benefit of reinstatement with continuity and back wages. Hon'ble Apex Court has hold that in such circumstance employee is entitled to benefit of compensation only.”

17. Also, in *Jagbir Singh v. Haryana State Agriculture Mktg. Board* (2009) 15 SCC 327 : (2010) 1 SCC (L&S) 545: Senior Superintendent Telegraph (Traffic), Bhopal v. Santosh Kumar Seal and others (2010) 2 SSC (L&S) 309 Hon'ble Apex Court has observed as under:

“However, in recent past, there has been a shift in the legal position and in a along line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice.

The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded.”

18. In the light of principle laid down in aforementioned case laws, it would not be just and proper to direct that the workman be reinstated in service. The ends of justice would meet by paying compensation to the workman instead in place of relief of reinstatement in service.

19. Having regards to these facts that the workman has worked as daily wagger from 01.08.1996 to 06.10.1997 and he was getting Rs. 40/- per day at the time of his alleged termination and keeping in view the entire facts of the case and the law, the interest of justice would be subversed, if, management is directed to pay lump sum amount of compensation only.

20. Accordingly, the management is directed to pay a sum of Rs. 10,000/- (Rupees Ten Thousand only) to the workman as compensation for termination of his services in violation of Section 25 F of the I.D. Act. The said amount shall be paid to the workman within 08 weeks of publication of the award, failing which; the same shall carry simple interest @ 8% per annum.

21. The reference is answered accordingly.

Dr. MANJU NIGAM, Presiding Officer

LUCKNOW

22nd August, 2014

नई दिल्ली, 3 सितम्बर, 2014

का.आ. 2431.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जॉइंट कमिश्नर ऑफ इनकम टैक्स एण्ड असिस्टेंट कमिश्नर ऑफ इनकम टैक्स सिलचर सर्किल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 13/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/111/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 3rd September, 2014

S.O. 2431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 13/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Joint Commissioner of Income Tax and Asstt. Commissioner of Income Tax, Silchar Circle and their workman, which was received by the Central Government on 29/08/2014.

[No. L-42012/111/2011-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Shri L.C. DEY, M.A., LL.B. Presiding Officer
CGIT-cum-Labour Court, Guwahati

Ref. Case No. 13 of 2012

In the matter of an Industrial Dispute between :-

The Management of Joint Commissioner of Income Tax,
Silchar Range & Asstt. Commissioner of Income Tax,
Silchar Circle.

-Vrs-

Their Workman Smt. Babli Sinha.

APPEARANCES :

For the Workman : Mr. S.N.Sarma, Sr. Advocate
Mr. A. Jahid, Advocate

For the Management : Mr. P. Saikia, Advocate
Mr. S.Sarma, Advocate

Date of Award: 25.07.2014

AWARD

1. This Reference has been initiated on an Industrial Dispute between the Management of Joint Commissioner of Income Tax, Silchar Range & Asstt. Commissioner of Income Tax, Silchar Circle, which was referred by the

Ministry of Labour, Government of India, New Delhi for adjudication vide their order No. L-42012/111/2011-IR(DU) dated 23/02/2012. The Schedule of this Reference is as under.

SCHEDULE

“Whether the action of the management of Joint Commissioner of Income Tax, Silchar Range and the Assistant Commissioner of Income Tax, Silchar Circle in terminating the services as well as denial to re-instate Smt. Babli Sinha is legal and justified? What relief the workman is entitled to?”

2. On receipt of the order of the Ministry as aforesaid this reference case was registered and notices were served upon both the sides. Accordingly the workman submitted her claim statement and the management also submitted their W.S. along with a petition raising objection that the present reference is not maintainable in law as the Income Tax Department is not an Industry within the meaning of the I.D. Act, 1947. Upon hearing both the sides at length and on perusal of the documents available on record the petition filed by the Management challenging the maintainability of the proceeding has been disposed of and the following issues were framed vide order dated 24.6.2014.

- (1) Whether the Income Tax Department is an Industry within the meaning of Section 2 (j) of Industrial Dispute Act;
- (2) Whether this Tribunal has jurisdiction to adjudicate the reference?

After framing the above mentioned preliminary issues both the parties were allowed to adduce evidence, if any, but both of them declined to adduce any evidence. However, both the parties made their respective oral submission on the issues at length.

3. The claimant Smt. Babli Singha was employed as part time/contingent workman in the Office of the Joint Commissioner of Income Tax, Income Tax Department, Government of India, Ministry of Finance, Silchar Range, Silchar in January, 2004. Thereafter she was made a full time workman in the said establishment from January, 2005 and her appointment was made in the same manner and procedure according to which her other colleagues namely Shri Alok Roy, Shri Dipak Deb, Smt. Rumila Chakrabarty, Shri Pappu Singh, Shri T. Das, Sri Sujit Chakrabarty and Sri Kamal Paul Purkeystha who are still in service in the establishment under the Management of Income Tax Department at Silchar. The petitioner being, a workman as defined in Section 2 (s) of the Industrial Dispute Act, 1947 had been performing the duties of writing of Order Sheet date wise, File Cover writing, Bell attendance, Alphabet Xeroxing, to carry documents, impress seal over Govt. Stamp on letters to be dispatched, cleaning official furniture of the office,

water carriers etc. and she was paid @ Rs.221.56 per day. The petitioner contended that she worked under the management continuously without any break or complain as a full time workman from January,2005 to December, 2009. Unfortunately her services were terminated and illegally without any reason or cause from January,2010. Notwithstanding her termination, she continued to attend office of the Management in the hope that she might be reinstated and allowed to work as before. She also made several appeal and representations but all those were in vain. The workman mentioned that her pre-nuptial name was Babli Mallik and she belongs to Schedule Caste Community. In support of her contention the claimant submitted the copy of Schedule Cast Certificate and some zerox copies of some bills. Hence, the petitioner prayed for reinstating her to her service under the management along with all financial benefits attached thereto.

The claimant by filing additional claim statement pleaded that the averment made in the W.S. submitted by the management that the Income Tax Department is not an Industry within the meaning of Section 2 (i) of the I.D.Act and hence, this Tribunal has no jurisdiction to adjudicate the reference is not true and correct. She also stated that she was appointed and employed by the authority having power and jurisdiction of appointing her as a part time casual worker for which no process of recruitment Rules is required to be followed and adhered to. She also denied the contention of the management that she was engaged in another job with the State Bank of India, Silchar Park Road Branch during the period from April,2005 drawing wages of Rs.4190/-. However, she mentioned that she did part time job in State Bank of India, Park Road Branch, Silchar as casual part time worker after completing her duty in the office of the O.P.

4. The case of the management, inter-alia, is that the present reference is not maintainable as the Office of the Joint Commissioner, Income Tax is under the Ministry of Finance, Government of India, is not an Industry within the meaning of Section 2(i) of I.D.Act, 1947 and the instant dispute is also not an Industrial dispute; hence, this Tribunal has got no jurisdiction to decide the issues framed by the government. The management stated that the workman was engaged in the month of January, 2005 in the office of the Joint Commissioner, Income Tax, Silchar as part time casual worker and the wages are fixed by the Government from time to time, and she was paid for the work done on no work no pay basis. The workman was engaged in the job of cleaning table, chair, telephone set, computers, attending bell calls of the office to carry file, serve drinking water, impressing office stamp on envelop, etc. The engagement of the workman was purely on temporary as part time casual workers which is evident from the fact that she was engaged in another job with the State Bank of India, Silchar Park Road from the period from April,2005 to January, 2010 drawing

wage of Rs. 4,190/- . It is also added by the management that the workman was found negligent in her job since 2009. It is also added by the Management that the workman was found negligent in her job and was irregular in attending the office since 2009. She was also found leaving the office early without any intimation or permission of the officer under whom she was working and inspite of verbal caution she failed to improve herself. Further the workman did not turn up for her duties in the Month of February, 2010 after receiving her wages earned in the month of January, 2010 and thereby she deserted the office and did not come for work till the end of April, 2010. Thereafter the management decided not to engage the workman anymore since the workman was engaged as a part time casual worker she had not acquired any right of continuous engagement as a result of her disengagement need not precede any procedural formalities. The management denied the averments made in paragraphs-2,5,6,7,and 8 of the claim statement submitted by the workman. It is also mentioned by the management that the workman was never a full time worker and there was no continuity in service as she was engaged in SBI, Silchar, Park Road Branch while she was working on part time basis and the workman never worked 240 days in a year. Since she left office by attending here duty from February, 2010 and remained away till April, 2010 for which she was disengaged in May,2010 and she was not terminated from January,2010. Under the above circumstances the management pray for rejecting the reference.

5. During argument Mr. S.Sarma, Learned Advocate for the management of Joint Commissioner for Income Tax, Silchar Range submitted that the Income Tax Department is not department carrying out any business, trade, undertaking manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen. He mentioned that as per the amended Section 2(j) of I.D.Act defines Industry as follows:

“(j) ‘industry’ means any systematic activity carried on by co-operation between the employer and his workmen (whether such workmen are employed by such employer, directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or service with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not—

- (i) any capital has been invested for the purpose of carrying on such activity; or
- (ii) such activity is carried on with a motive to make any gain or profit. ***** but does not include *****

- (6) any activity of the Government relatable to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with the defence research, atomic energy and space; or *****

As such, Mr. Sarma contended that since the Income Tax Department does not falls within the definition of Industry and it is discharging sovereign function of the State the present reference is not maintainable in law.

6. Mr. A. Jahid, Learned Advocate for the workman, on the other hand, assailing the argument of Mr.S.Sarma, Learned Advocate for the Management submitted that the Income Tax Deptt is doing certain systematic activities with special emphasis on the employee and employer relation, & hence it is an industry within the meaning of Section 2 (j) of the I.D.Act. He relied upon the Bangalore Water Supply and Sewerage Board—Vs.—A. Rajappa reported in (AIR 1978 SC 161), wherein the Hon'ble SC has given the definition of industry as :

- (a) Where(i) systematic activity (ii) organized by cooperation between employer and (the direct and substantial element is chimeral) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and services (not spiritual or religious but inclusive of material things or services geared to, celestial bliss e.g. making on a large scale prased or food) or prima facie, there is an industry in that enterprise.
- (b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint private or other sector.
- (c) The true focus is functional and the decisive test is the nature of activity with special emphasis on the employer-employee relations.
- (d) If the Organisation is a trade or business, it does not cease to, be one because of philanthropy animating the undertaking.

He pointed out that in the said judgment the Hon'ble Supreme Court has observed that even in discharge of sovereign functions, if there are units which are industries and are substantially severable, then they can be considered to come within the section 2 (j) of the I.D.Act. As such, according to Mr. Jahid, Learned Advocate for the workman, the Income Tax Department is Industry within the meaning of Section 2(j) of the I.D.Act and hence, the present reference is maintainable. This crucial test to decide whether the establishment of Income Tax Department is an Industry or not, is the nature of activity, systematic production, distribution of materials, services though not discharging sovereign function in the industry, where absence of profit motive is immaterial.

In the case of Bangalore Water Supply and Sewerage Board—Vs.—A Rajappa and Ors. (AIR 1978

SC 548 the Hon'ble Supreme Court held that the Act would not apply to sovereign functions of the State and that where Articles 309 to 311 of the Constitution were applicable the operation of the Act might be excluded. The only exception is in the case of industrial units, if any, severable from the essential function and possessing an entity of their own. In such cases it may be plausible to hold that the employees of those units are workmen and those undertakings are industries. While the function of the Income Tax Department is to collect tax. It is a Government agency in charge of monitoring the income tax collection by the Government of India, which is responsible for administering following Direct Taxation Act passed by the Parliament. It is also responsible for enforcing the Double Taxation Avoidance Agreement & deals with various functions of international aspects of taxation such as Transfer pricing, which has been held by the Hon'ble Supreme Court to be sovereign function. In this connection I am to rely upon the ratio of the case of New Delhi Municipal Corporation—vs—State of Punjab published in AIR 1997 SC 2847.

In Secretary, Assam PWD Welfare Union –vs— Labour Court, and Ors reported in (1986) 1 GLR 351, the Hon'ble Gauhati High Court decided that the Public Works Department of the Government of Assam, may, however, discharge a dual function, it may structurally so called and it may also perform function connecting with the activities undertaken in pursuance with their welfare policy & progress of the country, therefore , it is not an industry.

Thus function of the Income Tax Department is not only to collect taxes but it has got the power to tax & to combat aggressive Tax avoidance by enforcing Anti Avoidance Rule and deals with various function of international aspect of taxation, being obviously in the nature of sovereign or regal function of the State which are the primary and inalienable rights of Constitutional Government. From the above discussion and having regard to the ratio of the case as discussed it can safely be held that the Income Tax Department is not an Industry. As such, the issue No.1 is decided in negative against the workman.

In view of the above discussion and the findings on the Issue No.1 it is decided that since the Income Tax Department is not an Industry within the meaning of Section 2(j) of I.D.Act, the present reference is not maintainable. Accordingly this reference is disposed of.

The case is disposed of without granting any relief to the claimant. Send a copy of the no relief award to the Ministry as per procedure.

7. Send the no relief Award to the Ministry as per procedure.

Given under my hand and seal of this Court on this 25th day of July, 2014, at Guwahati.

L. C. DEY, Presiding Officer

नई दिल्ली, 3 सितम्बर, 2014

का.आ. 2432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एग्जीक्यूटिव डायरेक्टर, भारत हैवी इलेक्ट्रिकल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 77 और 78/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 02/09/2014 को प्राप्त हुआ था।

[सं. एल-42012/35/2013-आईआर (डीयू),
सं. एल-42012/36/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, अनुभाग अधिकारी

New Delhi, the 3rd September, 2014

S.O. 2432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 77 & 78/2013) of the Central Government Industrial Tribunal Cum Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Executive Director, Bharat Heavy Electricals Ltd. and their workmen, which was received by the Central Government on 2/9/2014.

[No. L-42012/35/2013-IR(DU),
No. L-42012/36/2013-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 25th August, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 77 & 78 of 2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Bharat Heavy Electricals Ltd. and their workman)

BETWEEN

1. Sri K. Naresh : 1st Party/1st Petitioner
2. Sri A. Venkatesh : 1st Party/2nd Petitioner

AND

The Executive Director : 2nd Party/Respondent
M/s Bharat Heavy Electricals Ltd.
Tiruchirapalli-620014
Tamil Nadu

Appearance :

For the 1st & 2nd Party/ : M/s Aiyar & Dolia,
Petitioners Advocates

For the 2nd Party/Respondent : M/s T.S. Gopalan &
Co., Advocates

S. No.	I.D. No.	Reference No. & Date	Name of the I Party S/Sri	Name of the II Party	Appearance for Workman	Appearance for Respondent
1.	77/2013	L-42012/35/2013-IR(DU) dated 17-7-2013	K. Naresh	The Executive Director, BHEL, Trichy	M/s Aiyar & Dolia, Advocates	M/s T.S. Gopalan & Co., Advocates
2.	78/2013	L-42012/36/2013-IR(DU) dated 17-7-2013	A. Venkatesh	The Executive Director, BHEL, Trichy	M/s Aiyar & Dolia, Advocates	M/s T.S. Gopalan & Co., Advocates

COMMON AWARD

The Central Government, Ministry of Labour & Employment vide the order of references referred detailed below referred the IDs mentioned above to the Industrial Tribunal, Madras for adjudication. The IDs were numbered as ID 77/2013 and 78/2013 respectively. In the above IDs the petitioners and the Respondent have appeared through the counsel and filed claim and counter statement respectively.

2. The schedule mentioned in the orders of reference in the above IDs are as under:

ID 77/2013

“Whether the action of the Management of Bharat Heavy Electricals Ltd., Tiruchirapalli in removing Sri K. Naresh from the rolls of the Company w.e.f.

18.10.2010 is legal and justified? To what relief the workman is entitled to?”

ID 78/2013

“Whether the action of the Management of Bharat Heavy Electricals Ltd., Tiruchirapalli in removing Sri A. Venkatesh from the rolls of the Company w.e.f. 18.10.2010 is legal and justified? To what relief the workman is entitled to?”

3. The averments in the Claim Statement in ID 77/2013 in brief are these :

The petitioner was appointed by the Respondent as DR Artisan (Temporary Employee/Artisan) w.e.f. 05.02.2009 by order dated 17.02.2009. After completion of 6 months of temporary service, the petitioner was placed on consolidated wage of Rs. 5,500/- per

month w.e.f. 05.08.2009 for a period of 6 months. While working so, the petitioner was issued with a charge sheet dated 30.01.2010 by the Deputy Manager (PFP-BPN) alleging that the experience certificate produced by the petitioner claiming age relaxation for employment was not genuine. The petitioner was directed to Show Cause why disciplinary action should not be taken against him. The petitioner had submitted an explanation, but this was found not satisfactory and an enquiry was ordered. The Enquiry Officer submitted report holding that the charges against the petitioner are proved. By proceedings dated 18.10.2010 penalty advice was issued to the petitioner intimating that the punishment of removal from service with immediate effect was being imposed on the petitioner. Accordingly the petitioner was removed from service. Though the petitioner submitted appeal challenging the order of removal, there was no response to the appeal. The name of the petitioner was deleted from the rolls of the Respondent Company w.e.f. 18.10.2010. Though the petitioner sought a review of the penalty order, he was informed that there is no reason to review the same. The dispute was raised accordingly. The action of the management in imposing the punishment of removal from service on the petitioner is illegal and is in violation of principles of natural justice. The Charge Sheet to the petitioner was not issued by the competent authority. The enquiry was conducted in a biased manner without following the principles of natural justice. The Enquiry Officer has not taken into account the explanation given by the petitioner. The Management did not examine any witnesses to substantiate the charge. The signatory to the charge sheet has assumed the role of Disciplinary Authority, ordering enquiry and appointing Enquiry Officer and Presenting Officer. The Charge Sheet having not been issued by proper authority, the enquiry is vitiated on this ground itself. The petitioner has submitted final statement enclosing the postal cover sent to him showing that he was working in sub-contract of M/s VKN Enterprises during the relevant period. The Enquiry officer has submitted report without looking into these aspects. There is no justification for the order removing the petitioner from service. An award may be passed that the removal of the petitioner from service is illegal and also directing the Respondent to reinstate the petitioner in service with back wages, continuity of service and other attendant benefits.

4. The Respondent has filed Counter Statement contending as follows:

The plant of the Respondent at Trichy is engaged in the manufacture of Boilers, Valves, Soot Blowers and Seamless Steel Tubes. The lowest cadre in the workman category is temporary employees (artisan). Upper age limit for the post of artisan is 27 years. For OBC candidates relaxation of three years is given. Upper age limit is relaxable to 84 months to candidates possessing

experience in organization engaged in the manufacture of Boiler Components. On 11.10.2008, the Respondent had issued employment notice inviting application for the post of Temporary Employee (Artisan) in various trades. The petitioner had applied for the post of Welder Trade. He was above the age limit by 10 months and 22 days as on the cut-off date. In the application he has shown work experience of more than 2 years with M/s VKN Enterprises, Trichy for claiming relaxation in age. The petitioner who passed the test and interview was given appointment on the condition that furnishing of false information or suppression of any factual information in the attestation form furnished by him would render him unfit for employment. If any false information comes to the notice of the Management subsequently, his service would be terminated. The petitioner whose original name was Purushothaman had changed his name by notifying in the Gazette on 16.04.2008. The petitioner had submitted a certificate dated 18.10.2008 from M/s VKN Enterprises to the effect that he was working in the said firm from February 2006 to October 2008. When the Respondent sought information about the genuineness of the Certificate from M/s VKN Enterprises they gave reply that the certificate was not issued by them. A Charge Sheet was issued to the petitioner and an enquiry was conducted. Since the facts were not disputed by the petitioner before the Enquiry Officer, there was no necessity to examine any witnesses. The Enquiry Officer submitted report holding that the charge of giving false information to get age relaxation was proved. Accordingly, the petitioner was awarded the punishment of removal from service. The petitioner is not entitled to any relief.

5. The petitioner in ID 78 of 2013 was also appointed by the Respondent as DR Artisan (Temporary Employee/ Artisan) and was placed on consolidated wages after 6 months temporary service, for a further period of six months. For getting age relaxation for appointment in the post the petitioner had submitted three experience certificates. The Management alleged by the charge sheet issued by it that two of the experience certificates, that of M/s City Enterprises and of M/s Shreeram Engineering Industry are not genuine. The third certificate from M/s Kumar Enterprises was found to be overlapping since the period mentioned in it included 6 months during which period the petitioner was undergoing training with the Respondent. On enquiry and the charge, the Enquiry Officer found that the charge is proved and this petitioner was also removed from the service of the Respondent, by order dated 18.10.2010. The petitioner has raised the dispute after the appeal filed by was rejected. The petitioner has contended that the enquiry was not conducted in a fair and proper manner and that the Charge Sheet, order of removal, etc. were not issued by the Competent Authority. It is also contended by the petitioner

that he has not submitted fake experience certificates. The Respondent has filed counter statement stating that on enquiry the petitioner was found to have submitted fake certificates and he was rightly removed from service on account of this. The Respondent has further contended that enquiry was conducted in a fair and proper manner.

6. The Respondent in both IDs being the same establishment and the nature of issue to be decided in both IDs being the same these were heard jointly. ID 77/2013 was treated as the main case and evidence was recorded in this.

7. The evidence consists of the documentary evidence of Ext.W1 and Ext.W31 and Ext.M1 to Ext.M47. No oral evidence was adduced by any of the parties.

8. The petitioners in both IDs have contended that the enquiry was not done in a fair and proper manner. The issue was heard as a Preliminary Issue and this Tribunal has entered a finding on 03.07.2014 that the enquiry was done fairly and properly.

9. The points for consideration are:

- (i) Whether the action of the management in removing the petitioners in the two IDs from their rolls w.e.f. 18.10.2010 is legal and justified?
- (ii) What is the relief to which they are entitled?

THE CASE OF K. NARESH, THE PETITIONER IN ID 77/2013

10. The facts of the case are mostly admitted. The petitioner who had applied for the post of Artisan (Temporary) was given offer of appointment by the Respondent as per Ext.W1. Ext.W2 is the Office Order by which he was appointed w.e.f. 05.02.2009 on temporary basis at a wage of Rs. 121/- per day. By Ext.W3-Office Order dated 24.09.2009 the petitioner was declared to have successfully completed his temporary service on daily wage basis and was placed on consolidated wages of Rs. 5,500/- p.m. w.e.f. 05.08.2009 for a further period of six months. Ext.M7 is the attestation form filled up and submitted by the petitioner on his joining the service of the Respondent. This among others contained a condition that if the fact of false information having been furnished or if any suppression of any factual information in the attestation form comes to notice during the service of person, his service is liable to be terminated. It is the case of the Respondent that subsequently on verification with M/s VKN Enterprises, Trichy it was revealed that the said establishment did not issue any experience certificate to the petitioner on the basis of which he had claimed relaxation in age for getting appointment with the Respondent. The Charge Sheet is said to have been issued by the petitioner for the reason of furnishing a false certificate. On enquiry the

charge was found proved and the petitioner was removed from service.

11. Ext.W5 is the Charge Sheet issued to the petitioner in which it is stated that on verification with M/s VKN Enterprises it has denied issuance of any work experience certificate in favour of the petitioner and the signatory to the certificate dated 18.10.2008 is not the authorized person in the firm to issue the certificate. Ext.W5 is the explanation submitted by the petitioner to the Charge Sheet. Ext.W10 is the communication given to the petitioner asking him to offer his views on the enquiry officer's report alongwith the report. The explanation of the petitioner, the copy of the certificate said to have been issued by M/s VKN enterprises furnished by the petitioner to the Respondent and also the copy of letter signed by the Manager of M/s VKN Enterprises were produced in the enquiry proceedings. The Enquiry Officer has taken into account the fact that the petitioner has submitted before him that he has worked on sub-contract of M/s VKN Enterprises. The Enquiry Officer has referred to a document produced by the petitioner indicating that he has actually worked with one Arivalan Contracts which was the Contractor of M/s VKN Enterprises. The Management has not examined any authorities of M/s VKN Enterprises to prove that the experience certificate produced by the petitioner before it is not genuine. It has relied upon the letter written by the Manager of M/s VKN Enterprises to prove this aspect. It has been argued by the counsel for the petitioner that because of non-examination of the authority concerned the Respondent has not proved the case that a false experience certificate was issued by the petitioner.

12. Ext.M8 is the experience certificate submitted by the petitioner to the Respondent. This is in the letter head of M/s VKN Enterprises and is signed by a Senior Inspection Engineer. The certificate which is seen signed by the Engineer of 18.10.2008 states that the concerned person was working as Welder in Arc Welding in the Company from the month of February 2006 to till date. During the enquiry proceedings the petitioner has admitted and even produced a document showing that he has actually worked not directly under VKN Enterprises but was working with a Contractor of VKN Enterprises only. However, there is no reference to this in Ext.M8 at all. If the petitioner was actually working under some other concern it was not proper on his part to furnish an experience certificate purported to be that of VKN Enterprises putting forth a claim that he was working with M/s VKN Enterprises as its direct employee. From the very admission given by the petitioner, it is seen that the certificate is a false one. Ext.M13 is the reply from M/s VKN Enterprises stating that they did not issue the certificate in question. In view of the admission of the petitioner that he did not work with VKN Enterprises but under another establishment, the

non-examination of the authority who gave Ext. M13 letter is not of any consequence. Even otherwise, by the admission of the petitioner it is proved that the certificate is not genuine.

13. The counsel for the Respondent has referred to the Gazette Notification showing change of name of the petitioner from Purushothaman to Naresh. By this notification, after 16.04.1008 he was known by the name Naresh. It is pointed out by the counsel for the Respondent that in spite of this notification Ext. M8, the experience certificate furnished by the petitioner is in the name of Purushothaman and not Naresh. In his application to the Respondent and other papers he has given his name as Naresh and not Purushothaman. In the normal course the certificate should have shown the changed name rather than the original one. In any case it is clear that the petitioner had no experience directly with M/s VKN Enterprises and yet he had furnished a certificate claiming so obtaining the signature of somebody who has no authority to sign on behalf of the M/s VKN Enterprises. So the case of the Respondent that the petitioner has furnished false certificate has been established before the enquiry proceedings.

14. It has been argued by the Counsel for the Petitioner that the Charge Sheet has not been issued by the competent authority and so also the order of enquiry, the order of removal from service, etc. are also not by the competent authority. This matter has been raised by the counsel during his argument in the Preliminary Issue regarding fairness of enquiry and has been found against the petitioner. So there is no necessity to consider this aspect again. I have already found while dealing with the Preliminary Issue that the orders are issued by authorities who are competent to do it.

15. From the discussion above, it is clear that there is no perversity in the finding of the Enquiry Officer so this Tribunal could not interfere with the finding or the punishment imposed on the basis of that finding.

THE CASE OF A. VENKATESH, THE PETITIONER IN ID 78/2013

16. The petitioner in this ID was aged 35 years, 11 months and 25 days as on the cut-off date for submitting the application. As per the Recruitment Rules of the Respondent the upper age limit for recruitment is 27 years. Being an OBC the petitioner was entitled to 3 years relaxation in age limit. He being the ward of a deceased employee of the Respondent he was eligible for a further age relaxation of 5 years still he was in excess age of 11 months and 25 days. The upper age limit is relaxable upto 84 months to candidates possessing experience in organization engaged in the manufacturing of Boiler Components. In order to get the benefit of this relaxation, the petitioner had submitted the experience certificates of three establishments by name M/s City

Enterprises, Shreeram Engineering Industry and Kumar Industries. On the basis of these experience certificates, Ext.W16, the offer of appointment was given to petitioner after written test and interview. Ext.W17 is the Office Order appointing him in the Respondent Organization. By Ext.W18 he was declared to have completed his temporary service and was placed on consolidated wages of Rs. 5,500/- per month for a period of six months w.e.f. 02.09.2009. It was while continuing under the employment of the Respondent consequently, the Charge Sheet marked as Ext.W19 was served on the petitioner alleging that the experience certificates submitted by him as that of City Enterprises and Shreeram Engineering industry are not genuine. Regarding the third certificate, that is the one issued by Kumar industries, the Respondent has stated in the Counter Statement that out of the period from August 2000 to 01.11.2008 for which period certificate was issued the petitioner had attended multi-skill training program with it between January 2002 and June 2002 and so there was an overlapping in the employment claimed by him during this period. The Respondent has also stated in the Counter Statement that the petitioner has not taken any permission nor informed the Respondent about his employment at M/s Kumar Industries during the period of training undergone with it. Ext. M28 to Ext. M30 are the experience certificates issued by Sriram Engineering Industries, M/s Kumar Industries and City Enterprises respectively to the petitioner. As stated there is no case for the Respondent that Ext. M29 is not genuine except for the case that for part of the period the certificate overlapped as the petitioner had been undergoing on the job training with the Respondent.

17. Ext. M35 to Ext. M37 are the letters said to have been written by the Respondent to the three concerns that have issued experience certificates. Ext.M38 is the reply from M/s Sriram Engineering Industries and Ext.M39 is the reply from City Enterprises, both stating that the certificates were not issued by them. In Ext.M38 which is a copy of the certificate issued by Shreeram Engineering Industry it is seen endorsed by a partner that the concern is a partnership concern, that it is not a proprietorship and the certificate is not issued by the firm. The experience certificate is seen signed by someone as Proprietor. Ext.M39 the letter purported to be from City Enterprises states that the certificate was not issued by the enterprises. It is not clear from the document who has signed the same.

18. The consistent stand of the petitioner is that he had experience with all the three concerns who had issued certificates. Ext.W4 is the explanation submitted by the petitioner to the Charge Sheet. Even in this explanation the petitioner has asserted that the fact that he had worked with City Enterprises and Shreeram Engineering Industry is true. So also he has asserted that he had worked with

Kumar Industries also. In Ext.W24 a statement given to the Enquiry Officer on 10.04.2010 also he has asserted the truth of his claim of work with the concerned enterprises. In spite of this stand of the petitioner, the Respondent has not taken any steps to prove the letters said to have been written on behalf of City Enterprises and Shreeram Engineering Industry. In view of the assertion by the petitioner, it was incumbent upon the Respondent to prove that the certificates are not genuine. Production of mere letters without examining the authors of these letters are not sufficient to prove them. So the authenticity of Ext.M38 and Ext.M39 were not established in the enquiry proceedings.

19. So far as Ext.M29, a certificate issued by Kumar Industries is concerned, it is very much clear from the Counter Statement of the Respondent itself that the genuineness of the letter was vouchsafed by M/s Kumar Industries in reply to the letter written by the Respondent. The Respondent has stated in the Counter Statement that Kumar Industries had confirmed that the petitioner was in employment with it from August 2000 to 01.11.2008.

20. The only reason for the Respondent to reject Ext.M29 is that a short period out of the period mentioned in this overlaps with the period during which the petitioner was on job training with the Respondent. Regarding this also the petitioner had referred to in Ext.W20 the explanation. He has stated in this that even while undergoing training with the Respondent he has worked as a part-time contract employee with Kumar Industries. It is very much clear from Ext.M29 that the petitioner had long experience with Kumar Industries. It must have been while working with Kumar Industries, the petitioner was chosen for training by the Respondent. This training, as could be seen from the Counter Statement of the Respondent was for a short-period from January 2002 to June 2002. Being only a short training it is only probable that the petitioner did not give up the job at Kumar Industries for fear of losing the job. It is clear from the certificate that even after the training with the Respondent he continued to work with Kumar Industries until he was selected by the Respondent. There is nothing to show that anything prevented the petitioner from working in another establishment while he was undergoing training with the Respondent. After all it was only a training and the petitioner could not have expected to be employed by the Respondent at that time. So the petitioner could not be found fault with for continuing his job with Kumar Industries even while he was undergoing training with the Respondent. It was not proper on the part of the Respondent to disregard the experience certificate issued by Kumar Industries on the pretext that it overlapped for some period. After all the petitioner was the ward of a previous employee of the Respondent and he deserved better consideration from the Respondent.

21. Ext.M28 and Ext.M30 having not been proved false and the genuineness of Ext.M29 being beyond doubt, it was not proper on the part of the Respondent to turn out the petitioner from job alleging that he had produced false certificates. The Enquiry Officer had not considered these aspects. The finding of the Officer is to be treated as perverse only. It was not proper to remove the petitioner from service on the basis of the enquiry report against the petitioner. I find that the order of the Enquiry Officer and the order of removal of the petitioner from service by the Respondent are liable to be set aside.

22. On the basis of my discussion above, an award is passed as follows:

- (i) The reference in ID 77/2013 is answered against the petitioner.
- (ii) The order of removal from service of the petitioner in ID 78/2013 is set aside. The Respondent is directed to reinstate the petitioner in service within one month with 50% back wages, continuity of service and other attendant benefits. If back wages are not paid within a month, it would carry interest @ 9% per annum.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 25th August, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioners : None

For the 2nd Party/Management : None

Documents Marked:

On the side of the petitioner

Ex. No.	Date	Description
Ex.W1	30.01.2009	Offer of Appointment
Ex.W2	17.02.2009	Office Order
Ex.W3	24.09.2009	Office Order
Ex.W4	30.01.2010	Charge Sheet issued to petitioner
Ex.W5	08.02.2010	Explanation submitted by petitioner
Ex.W6	25.02.2010	Notice regarding domestic enquiry
Ex.W7	10.03.2010	Proceedings of Enquiry
Ex.W8	08.04.2010	Proceedings of Enquiry
Ex.W9	-	Written reply for petitioner
Ex.W10	15.07.2010	Second Show Cause Notice alongwith EO's report

Ex.W11	18.10.2010	Penalty advice issued to petitioner	Ex.M7	02.02.2009	Attestation form executed by the petitioner
Ex.W12	27.10.2010	Appeal preferred by petitioner	Ex.M8	18.10.2008	Alleged experience certificate issued by VKN Enterprises to K. Purushothaman
Ex.W13	04.11.2010	Office Order on deletion of petitioner's name from rolls	Ex.M9	-	National Apprenticeship Certificate issued by Government in Welder Trade (Gas and Electric) – December 1998 and Provisional Certificate to K. Purushothaman
Ex.W14	-	Review filed by the petitioner	Ex.M10	29.01.2009	Self-Undertaking for OBC candidate executed by the petitioner-K. Naresh
Ex.W15	16.05.2012	Order of Reviewing Authority	Ex.M11	23.04.2008	Tamil Nadu Government Gazette regarding change of name by the petitioner (16.04.2008 – K. Purushothaman to K. Naresh)
Ex.W16	28.01.2009	Offer of appointment	Ex.M12	22.05.2009	Letter from Respondent to VKN Enterprises
Ex.W17	06.03.2009	Office Order	Ex.M13	25.05.2009	Reply from VKN Enterprises to Respondent stating that it had NOT issued the certificate
Ex.W18	24.09.2009	Office Order	Ex.M14	04.03.2010	Notice of enquiry from Respondent to petitioner – enquiry on 10.03.2010
Ex.W19	30.01.2010	Charge Sheet issued to the petitioner	Ex.M15	08.03.2010	Letter from petitioner to Respondent requesting to permit his co-employee R. Ethiraj to assist him in the enquiry
Ex.W20	02.02.2010	Explanation submitted by the petitioner	Ex.M16	29.03.2010	Notice of enquiry from Respondent to petitioner – Enquiry-II on 08.04.2010
Ex.W21	25.02.2010	Notice regarding domestic enquiry	Ex.M17	22.07.2010	Letter from petitioner to Respondent requesting one month time to give his comments on the findings of the Enquiry Officer
Ex.W22	10.03.2010	Proceedings of Enquiry	Ex.M18	03.12.2010	Letter from petitioner to ALC (C), Puducherry against his non-employment.
Ex.W23	08.04.2010	Proceedings of Enquiry	Ex.M19	-	Reply by Respondent to ALC (C), Puducherry
Ex.W24	10.04.2010	Written reply by petitioner	Ex.M20	10.04.2013	Conciliation Failure Report by ALC (C).
Ex.W25	15.07.2010	Second Show Cause Notice alongwith EO's report	Ex.M21	-	BHEL Recruitment Policy (Extract from Personnel Manual)
Ex.W26	18.10.2010	Penalty advice issued to petitioner	Ex.M22	-	Employment notice (No. 282) for ARTISANS (Petitioner got the job in response to this notice)
Ex.W27	27.10.2010	Appeal preferred by petitioner			
Ex.W28	01.11.2010	Order of Appellate Authority			
Ex.W29	04.11.2010	Office Order on deletion of petitioner's name from rolls			
Ex.W30	-	Review filed by petitioner			
Ex.W31	-	Copy of relevant provision of the Certified Standing Orders of Respondent			

On the side of the Respondent

Ex.No.	Date	Description			
Ex.M1	-	Extract of Personal Manual – Recruitment Policy	Ex.M18	03.12.2010	Letter from petitioner to ALC (C), Puducherry against his non-employment.
Ex.M2	-	Respondent's Employment Notice 283	Ex.M19	-	Reply by Respondent to ALC (C), Puducherry
Ex.M3	24.10.2008	Application by the petitioner	Ex.M20	10.04.2013	Conciliation Failure Report by ALC (C).
Ex.M4	25.01.2008	Permission Slip for Written Test and declaration by the Candidate	Ex.M21	-	BHEL Recruitment Policy (Extract from Personnel Manual)
Ex.M5	29.01.2009	Letter from Respondent to Petitioner for medical examination and Medical Report	Ex.M22	-	Employment notice (No. 282) for ARTISANS (Petitioner got the job in response to this notice)
Ex.M6	05.02.2009	Joining Report by petitioner			

Ex.M23	25.01.2009	Permission Slip for written test to be conducted on 25.01.2009 and declaration by candidate	Ex.M36	22.05.2009	Letter dated 22.05.2009 sent by BHEL to Kumar Industries to confirm the genuineness of the experience certificate of A. Venkatesh
Ex.M24	27.01.2009	Call Letter dated 27.01.2009 – For examination and medical examination report dated 28.01.2009	Ex.M37	22.05.2009	Letter dated 22.05.2009 sent by BHEL to City Enterprises to confirm the genuineness of the experience certificate of A. Venkatesh
Ex.M25	02.03.2009	Joining report dated 02.03.2009 – by A. Venkatesh	Ex.M38	01.09.2009	Reply from Shree Ram Engineering Industry to Respondent in respond to letter dated 28.07.2009
Ex.M26	02.03.2009	Attestation form filled up by A. Venkatesh	Ex.M39	11.06.2009	Reply from City Enterprises to Respondent
Ex.M27	12.02.2009	National Apprenticeship Certificate of A. Venkatesh – Electrician Trade – Dec. 1999	Ex.M40	04.03.2010	Notice of Enquiry dated 04.03.2010 – Enquiry on 10.03.2010
Ex.M28	28.07.2000	Experience certificate issued by M/s Shreeram Engineering Industry to A. Venkatesh	Ex.M41	08.03.2010	Letter of employee informing the name of his Defence Representative Mr. K. Sakthivel, Assistant Engineer – Q.C.
Ex.M29	01.11.2008	Experience certificate issued by M/s Kumar Industries to A. Venkatesh	Ex.M42	29.03.2010	Notice of enquiry notifying the date of second sitting on 08.04.2010
Ex.M30	15.10.1997	Experience certificate issued by City Enterprises	Ex.M43	20.07.2010	Letter of the petitioner to the Enquiry Officer
Ex.M31	10.02.2009	Community Certificate (OBC) issued to A. Venkatesh by Tahsildar	Ex.M44	23.07.2010	Letter from petitioner to the Enquiry Officer requesting one month's time to give his reply
Ex.M32	27.01.2009	Self-Undertaking by A. Venkatesh for OBC candidate	Ex.M45	03.12.2012	Review petition of the petitioner addressed to ALC (C) against penalty advice dated 18.10.2010 and order on his appeal dated 01.11.2010
Ex.M33	23.04.1998	Certificate issued by Senior Maintenance Engineer – BHEL Tiruchirapalli to A. Venkatesh – Apprentice Act- Electrician	Ex.M46	-	Reply submitted by BHEL before ALC (C)
Ex.M34	02.03.2009	Declaration by candidates seeking employment on compassionate grounds by A. Venkatesh	Ex.M47	10.04.2013	Failure of conciliation report by ALC (C) addressed to Ministry – New Delhi
Ex.M35	22.05.2009	Letter dated 22.05.2009 sent by BHEL to Shree Ram Engineering Industry to confirm the genuineness of the experience certificate of A. Venkatesh			